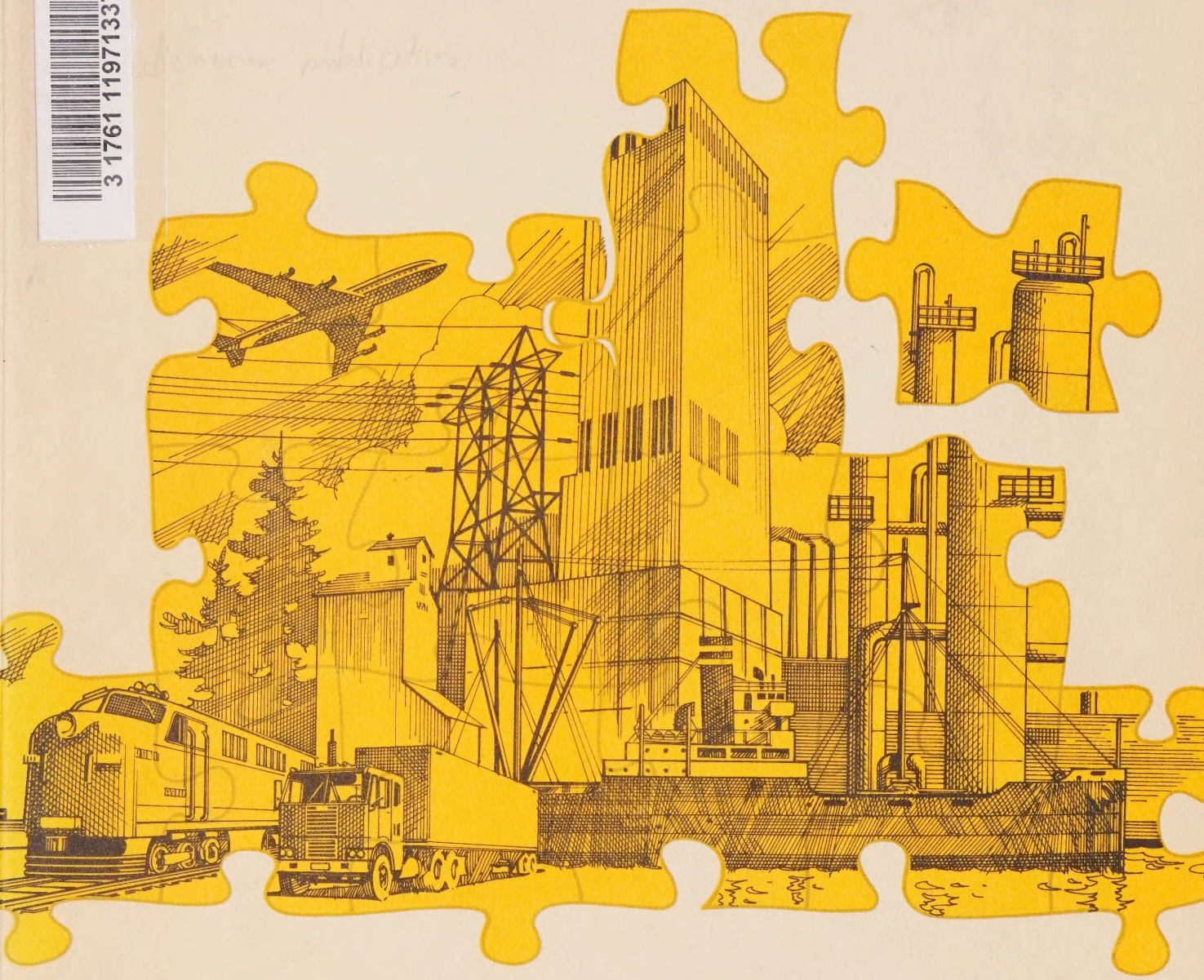
Royal Commission on Corporate Concentration



STUDY NO. 22

Party, Candidate and Election Finance

A Background Report

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by

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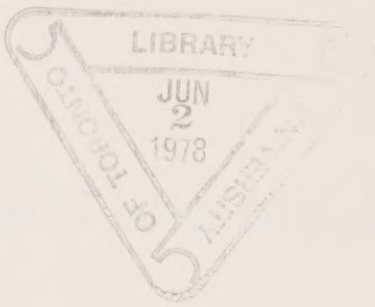
July 1976



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FOREWORD

In April 1975, the Royal Commission on Corporate Concentration was appointed to "inquire into, report upon, and make recommendations concerning:

(a) the nature and role of major concentrations of corporate power in Canada;

(b) the economic and social implications for the public interest of such concentrations; and

(c) whether safeguards exist or may be required to protect the public interest in the presence of such concentrations."

To gather informed opinion, the Commission invited briefs from interested persons and organizations and held hearings across Canada beginning in November 1975. In addition, the Commission organized a number of research projects relevant to its inquiry.

This study on alternative models of financing political parties, political candidates, and elections is part of a series of background studies prepared for the Commission. It was written by Khayyam Z. Paltiel, Professor of Political Science at Carleton University in Ottawa. Dr. Paltiel is the author of a number of articles on the financing of the Canadian political process, and of the 1970 book Political Party Financing in Canada. He served as Research Director to the Advisory Committee on Election Expenses from 1965 to 1967.

The Commission is publishing this and other background studies in the public interest. We emphasize, however, that the analyses presented and conclusions reached are those of the author, and do not necessarily reflect the views of the Commission or its staff.

Donald N. Thompson
Director of Research

ACKNOWLEDGEMENTS

Broad survey studies like the present one would not be possible without the assistance and cooperation of countless individuals and organizations. The sheer volume of data and information is so vast that any generalized findings must necessarily depend on the joint efforts of politicians, public officials and scholars. Special gratitude is due to Dr. Herbert E. Alexander, Director of the Citizen's Research Foundation of Princeton, N.J., for his help and guidance over the years as well as his contribution to this study. Among public officials, I am particularly grateful to M. Jean-Marc Hamel, Chief Electoral Officer for Canada, and his Director of Election Expenses, R.G. Dubé. Thanks are also due to the Hon. Arthur Wishart Q.C., Chairman of the Ontario Commission on Election Contributions and Expenses, together with his able and helpful staff, and to M. le Juge François Drouin, président général des élections du Québec, and his assistant M. Giguère. As always the Carleton University support staff has proved most loyal and I wish to note the part played in the production of this study by Pearl Fisher, Ellen Leleu Boswell and particularly Diane LeBoeuf. The author is of course accountable and responsible for the interpretation and presentation contained herein.

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ADDENDUM

Since the completion of the original text on Canadian electoral expense legislation, the Quebec Government has presented to the National Assembly the following Bill to amend the Quebec Election Act and to govern the financing of political parties (March 1977, Bill No. 2). The basic goal of the new Bill is to raise the moral standards surrounding party finance. Only individual registered electors will be permitted to contribute to party funds; contributions from businesses, corporations, trade unions, and unincorporated associations are thus outlawed. No individual will be allowed to donate more than $3,000 annually to political parties. Gifts of $25 or more will have to be made by cheque, or other order of payment signed by the elector and drawn on a chartered bank or a savings and credit union where the elector has an account open in his own name. The name and address of each and every donor must be transmitted to a director general of financing of political parties. The director general, who will be backed by strengthened monetary and legal sanctions, is to be appointed for a seven-year term by a two-thirds majority of the Quebec National Assembly on the recommendation of the provincial Prime Minister. He is charged with the task of enforcing the provisions of the law and of informing the public regarding the finances of political parties.

Political parties will have to submit detailed reports concerning their receipts, income from all sources, the destination of party funds and the sums expended for campaign and other purposes. The Bill is designed to prevent the use of third parties or prête-noms to camouflage or conceal the actual source of donations. Contributions must be made by the elector himself (or herself) from his, or her, own property ("ses propres biens").

The Bill introduces for the first time in Quebec electoral law the principle of tax credits for donations amounting to 25 per cent of total annual gifts to political parties to a maximum of $100 per annum per elector.

The new Bill also seeks to increase the assistance from the public purse granted to political parties. The total annual amount of $400,000 formerly allocated and distributed among the parties will rise almost three-fold to over $1 million, calculated on the basis of 25 cents per elector and distributed on the basis of the percentage of votes received by each registered party that is represented in the legislature by at least twelve members or that, if represented by fewer than twelve members, polled at least 20 per cent of the valid votes cast.

Parties or persons contravening provisions of the new Act will be subject to very heavy fines.

(See also pages 27 to 50, "Federal and Provincial Election Expense Legislation: A Comparative Analysis".)

THE HISTORICAL BACKGROUND IN CANADA

The relevance of alternative models of party, candidate and campaign finances can only be assessed in terms of the actual practices of Canadian parties in the past and in the contemporary period. The Canadian electoral process and its monetary aspects are a product of the various strands which make up Canada's history and political culture and the structure of the Canadian economy, as well as the legal and constitutional traditions which have shaped our country's political institutions. Federalism together with the Parliamentary and Cabinet system of government has had a determining impact on the structure of Canadian parties. Parliament and Cabinet promote the centralization of power in the hands of the Party Leader, and, in the case of the governing party, in those of his regional Ministers. However, the federal distribution of legislative authority disperses the leaders' powers by establishing competing centres in the ten provinces and provincial party organizations. These factors have had a considerable impact on party and campaign finance. The centrifugal forces immanent in any federal state are augmented by regional-economic and regional-ethnic cleavages associated with Western alienation, Maritime poverty and parochialism, and Québecois nationalism.

Canadian party finance has evolved since Confederation in 1867 when the amorphous parliamentary groupings could scarcely be considered

national political parties. Partisanship, as understood today, was further weakened by a marked lack of cohesion among members of parliament. The dominant "ministerialism", symbolized by the phenomenon of the "loose fish" was the product of an unreformed electoral system with open non-secret voting and deferred non-simultaneous elections designed to favour the incumbent ministry. The absence of permanent party organizations and specialized fund-raising mechanisms imposed the burden of raising and allocating campaign funds on the shoulders of the leaders of the parliamentary parties themselves. Indeed, the judicious distribution of such monies was viewed as essential in gaining and maintaining the loyalty of otherwise wavering supporters at both the voters' and candidates' levels. Party leaders in this period thus could not escape the consequences of their association with the questionable and often scandalous means employed in the search for the monies required to lubricate their electoral organizations. Thus the notorious Pacific Scandal, the first of many campaign fund scandals, brought about the fall of Sir John A. Macdonald and his Quebec lieutenant, Georges Etienne Cartier, who had sought and accepted money from Sir Hugh Allan, the shipping magnate who was bidding for the contract for the construction of the Pacific Railway. The reminder to an outraged Alexander MacKenzie that he ought to find financial backing in 1877 for his Quebec lieutenant, Wilfrid Laurier, simply confirmed the norm expected of party leaders,

including Liberals; his demurrer only underscored his naiveté.

The adoption of the secret ballot, simultaneous voting, and other reforms along with the extension of the franchise promoted the evolution of more coherent party structures foreshadowing modern parties and the emergence of differentiated and specialized roles. This division of labour saw the appearance of specialized fund raisers who relieved the leaders of their unenviable duty and the accompanying dangers of public disclosure to scandal. Resourceful specialists took over this function, men like the Hon. Thomas McGreevy, M.P., and the Hon. Joseph Israel Tarte, M.P., whose activities in the late nineteenth and early twentieth centuries were to contribute further episodes in the long line of Canadian railway scandals; and enrich the language with such deathless phrases as, "Les élections ne se font pas avec des prières". The dissociation of the party leader from direct involvement and the possibility of taint from fund-raising procedures continued to unfold during the second quarter of this century and may be usefully examined in the light of the disclosures surrounding the Beauharnois Affair of 1931. The specialized fund-raiser, a type who flourishes to this day, had become the full-time party professional in the person of Senator Andrew Haydon (and his successor Senator Norman Lambert). Haydon, the general secretary of the National Liberal Committee since 1919, was named main treasurer and fund-raiser of the

Liberal Party in 1922, with Senator Donat Raymond as "trustee" for party funds in Quebec which then as now was considered to be a "special case". When the Beauharnois scandal broke, the Right Honourable W. L. Mackenzie King, in contrast to Sir John A. Macdonald sixty years earlier, put himself at one remove by claiming that he, as Liberal Party leader, was not aware of the details of party finance. Although his disclaimers were scorned by his counterparts on the other side of the House of Commons, the stance King adopted during his passage through this "valley of humiliation" has been followed by Liberal and Conservative leaders since. This arm's length attitude toward the fund-raising and organizational process had its bitter side in the sense of frustration expressed by organizers like Senator Lambert whose services were essential but who were carefully kept in the shadows even at those moments of victory to which they had contributed so much.

The fund-raising structure of the Conservative Party in this century parallels that of the Liberals. Here too specialized fund-raisers and full-time professional organizers have appeared. However, the Conservative Party's apparatus has tended to be more centralized than the federalized structure of the Liberal Party; a contributing factor having been the Tories' traditional weakness in Quebec which has precluded the emergence of a fully autonomous wing in that province. Also the personality of the Party leader and his policies had a greater

impact on the fund-raising successes or failures of the Conservatives. In the case of R. B. Bennett, the leader's personal fortune became the mainstay of the party during the early thirties, whereas the annoyance of the Montreal business community with the programmes supported by Dr. Robert Manion resulted in a financial drought in the years preceding the outbreak of the Second World War.

Despite the growing sophistication of the fund-raising structures of the major and minor parties since the turn of the century, there has been little change in the sources of funds. But along with the development of party organization, there has been a shift in the objects of expenditures away from the direct mobilization of voters at the poll through corruption and the liberal supply of alcohol in favour of advertising and the techniques of the hidden persuader. In the past, the support of the press was gained either through the award of printing contracts, secret subsidies or direct ownership; all of which implied the spending of large amounts of money between campaigns. The extension of the franchise and the spread of education put even greater stress on the written word. A revolutionary change in the methods and style of campaigning took place, however, with the advent of radio broadcasting in the 1930's and television in the 1950's. Supplemented by the quick access to outlying areas afforded by the development of the jet airplane, the electronic media have profoundly altered the style of campaigns and

election spending. The advertising man has entered the counsels of the parties with a corresponding rise in mass media expenditures as increasing emphasis has been placed on image building consonant with the personalization of politics so characteristic of modern election battles.

Campaign Funds-Provenance and Collection: The main sources of funds needed to finance the activities of the dominant Liberal and Conservative parties are the centralized corporate industrial and financial firms headquartered in Toronto and Montreal. These business givers may be counted in the hundreds rather than in the thousands, and are identified with the largest firms in the financial and industrial sectors of the country. Although the recently enacted reforms at the federal and provincial levels may alter the traditional pattern, until now provincial and even municipal elections, as well as federal campaigns, were funded from the same central party funds and sources. Half the funds raised by the Liberal Party in Ontario, the largest single source of party funds, for the 1972 federal general election were collected personally by the then chairman of the party's Treasury Committee from only ninety large corporations in Ontario; while the Ontario Commission on the Legislature appointed by that province's Progressive-Conservative government and headed by a former national president of the Progressive-Conservative Party stated baldly that ninety per cent of the funds raised by the Liberals and the Conservatives are provided by business. This

information confirms the findings of the federal Advisory Committee on Election Expenses which indicated, for example, that of the bulk of the funds raised by the Liberals after 22 years of power for the extremely expensive campaign, for its time, of 1957, about $7.5 million came from 300 to 400 corporate donors. In recent years the two main old Canadian federal parties have become increasingly dependent on funds from large multi-national corporations as evidenced in testimony produced before American Congressional Committees and data disclosed to the U.S. Securities and Exchange Commission; these donations, some of them totalling in the millions within the past decade, were made by such corporations and their Canadian subsidiaries as: Exxon, Standard Oil of California and Indiana, Gulf and Mobil Oil, North American Rockwell, McDonnell Douglas Corporation, International Business Machines Corporation, General Motors and Ford Motor Company, and numerous others. Although there is no obstacle in Canadian federal law preventing the acceptance or solicitation of funds from foreign sources, the apparently growing dependence of our major parties on multi-national foreign-based businesses raises serious questions regarding the influence these might have on Canadian public policy.

Very few people have been involved in raising the funds required by the old parties. The usual fund-raising machinery has been composed of finance committees in Toronto and Montreal with the Toronto chairman

being senior. Satellite committees have been established on occasion in other cities in Central Canada; recently Western party finance chairmen have become more prominent, reflecting the shifts in party finance with the rise of such centres as Calgary and Vancouver. The principal solicitors have not been subject to the formal elected party organs, nor have lower level collectors usually held elective office in their parties; both groups having been in practice coopted from the legal and financial communities or having inherited their positions from older members of their families. On occasion the more successful and well-placed have risen to the Valhalla of Canadian politics, the Senate, but seldom if ever have been found in the House of Commons.

The traditional pattern of Canadian party finance has been partially undermined by the development of third parties, the collapse of the two-party system and the political and economic resurgence of the provinces in the post-war period. The old parties have been challenged by the Cooperative Commonwealth Federation and the Social Credit Movement in the West and the Ralliement des Créditistes in Quebec, which have been largely self-financing although Social Credit has received considerable business support in Alberta and British Columbia. The New Democratic Party while continuing to rely on its membership for financial support, as did its predecessor the Cooperative Commonwealth Federation, is nevertheless increasingly dependent upon substantial monetary support from the trade union movement; some of which

is received from American trade union sources through such instrumentalities as the Committee for Political Education (COPE). The renaissance of the provinces has certainly not diminished the reliance on corporate and business contributions but has altered the point at which such funds enter the party system and has promoted provincial independence of central party organizations.

Intermittent efforts were made by both the Liberal and Conservative Parties to broaden the base of their financial support through mass fund-raising, but their experience as well as the attempts by the minor parties indicate that to date mass solicitation has not been a practical method of party finance. Until the enactment of the recent federal and provincial legislation, Liberal and Conservative experiments were complete failures. The social democratic CCF made a sustained effort to raise money at the "grass roots", but its final years were marked by financial stringency. Improvements in the resources of its successor the New Democratic Party reflect in part the support of its membership but even more so the availability of trade union funds, despite the fact that the NDP hopes for much more from that quarter have not been completely met. Nor does the experience of the Social Credit movement or of the Ralliement des Créditistes belie the reliance of our parties on the organized corporate business and trade union structures. The preliminary reports for 1974 made available by the parties to the Canadian Chief Electoral Officer

under the new federal act only serve to underline the dependence of the parties on their traditional financial base; for despite their better electoral records and the larger sums collected, individual contributions to the Liberal and Progressive-Conservative parties, respectively, are less than one quarter the number of donors to the New Democratic Party.

Canadian parties require funds for three purposes: to conduct campaigns, sustain viable inter-election organizations and to provide research assistance, communications and other support for the party leadership and elected representatives at various levels. These activities are beyond the scope of this study but the available evidence suggests that only the first of these, the campaign war-chest, receives adequate attention. Attempts are made to satisfy the second demand, but incumbency tends to shift the centre of party decision-making to the Cabinet with the consequent atrophy of party headquarters organization. On the other hand research and advisory facilities tend to be neglected or left to the facilities available to legislative and parliamentary caucuses. This bleak picture may change as a result of the stimulus which the new tax credit system may offer to inter-election fund-raising with a consequent impact on the sustaining funds of the parties.

The Traditional Legal Framework: Laissez-faire was the dominant feature

of the federal and provincial approach to the problem of election expenses in Canada prior to 1963. The laws did not recognize that money constitutes a special problem in the conduct of modern election campaigns but were reluctantly adopted in response to recurrent scandals. The interest in reform faltered as the memories of the scandals which drew the attention of legislators faded from public consciousness. Such laws as were enacted focussed on the behaviour and spending of candidates, while the very existence of parties was ignored. The one useful device which was generally adopted in Canada was the doctrine of agency which invested legal responsibility for the use of money in campaigns in a single agent. The only other noteworthy measure was to make the candidate and his agent responsible for a declaration of their campaign income and expenditures and how they spent the monies.

Canadian law from the outset paid little attention to the problem of election funds. In 1867 only corrupt practices such as the giving and receiving of bribes, treating--notably with alcoholic beverages--and the conveyance of voters to the polls in questionable circumstances were considered to be illegal. The likelihood of corruption issuing from the moral and material indebtedness of candidates to those who had contributed to their campaigns was ignored. The impact of the uneven distribution of funds amongst parties and candidates was disregarded. These problems were first considered only after the earliest of Canada's major railway scandals in 1873. The actions taken by

Parliament at that time influenced subsequent Canadian thinking in this field. The Pacific Scandal led to the first legislative attempt in 1874 to use publicity as a means to restrain the misuse of election funds. Legal accountability for the use of money was imposed on the agent of a candidate and both were made responsible for an official declaration on how funds were employed. The doctrine of agency was an important innovation in that it established who was answerable for the spending of funds. However, no attention was paid to the means whereby funds were gathered, leaving it to the electorate alone to be a judge of the process. Public disclosure was to be applied to candidate spending and the objects of expenditure, but the sources of money were ignored and remained so until the contemporary period.

The original Canadian act and its subsequent amendments suffered from other inadequacies. The law totally ignored the existence of parties and the fact that funds were collected and expended by the central party organizations which were also the principal financial support for local constituency campaigns. Reporting was only required of party leaders and fund raisers at the constituency level where they themselves were candidates. The demonstrable facts are that the parties rather than the candidates are the main conduits through which funds are raised, distributed and spent. Another fatal weakness of early laws was the fact that no enforcement machinery was established; leaving

initiative for the filing of complaints to the public at large meant that no one was in charge. No means was provided for checking the accuracy of candidate declarations and no official was given the duty to prosecute those who had violated the requirements of the law. No provision was made for the collection, tabulation and central publication of the reports made by candidates. The absence of adequate enforcement made a mockery of the law and the neglect to submit the minimal declarations required. With each election the number and percentage of delinquent candidates rose, reaching over 25 per cent by the late 1960's. The vain hope that electors and rival parties would act as mutual watch-dogs was not fulfilled. Indeed the only Member of Parliament prosecuted under this lame legislation was a minor party representative who lost his seat in 1921 as a result of the concerted efforts of the major parties; he was a Moose Jaw Progressive who failed to report that he had hired a band to see him off to Ottawa.

Later scandals simply led to unimportant or ill-conceived amendments to the 1874 Act. In the 1890's an amendment made it a corrupt practice for any one to help a candidate in return for a "valuable consideration" or for the assurance of "any office, place or employment". In the first decade of this century electoral and administrative corruption stimulated another series of ineffectual reforms. Foreigners were forbidden to assist in Canadian elections,

mainly to prevent the participation of ex-Canadians who were brought to vote from the United States at considerable cost. The doctrine of agency was reinforced by making it an indictable offence to make any contribution except for personal expenses to a candidate other than through the official agents, but the crucial role of parties continued to be ignored. A third amendment passed in 1908, which banned contributions from corporations to candidates and parties, proved in the event to be one of the most ludicrous chapters in this sorry tale of ineffective legislation. A typical product of the "progressive" era, this prohibition of corporate donations did not constitute an obstacle to contributions from business interests. On the other hand it proved in the event to be a stumbling block to the financial participation of trade unions in the electoral process as a result of a 1920 amendment which made the clause applicable to all companies or associations whether incorporated or not. After a decade of agitation by trade union and socialist Members of Parliament under the leadership of the late J. S. Woodsworth the clause which prohibited contributions from trade unions as well as corporations was repealed, ironically on the very eve of the Beauharnois Affair.

The most infamous election fund scandal of modern times arose from the acceptance by Liberal Party fund-raisers of a huge sum of money for the 1930 federal general election campaign from the promoters

of a private Hydro-Electric Power Company in return for an extremely valuable concession. The fact that no prosecutions were ever undertaken demonstrated the bankruptcy of existing law. As the Advisory Committee on Election Expenses concluded in its 1966 report:

> The scandal demonstrated the irrelevance of reporting laws which failed to recognize parties in that all the money in question had been given to party collectors, not to candidates. It was in many ways one of the worst scandals in Canadian history, and one which arose directly out of campaign fund corruption; yet on this occasion not even another legal platitude was called in to mollify public opinion.

Prior to 1974, election expenses at the federal level in Canada were governed by the Canada Elections Act. Candidates were required to name an official agent through whom all expenses were to be paid with minor exceptions such as personal expenses to be paid by the candidate himself up to an amount of $2,000. Contributions to the candidate also had to be made through the official agent. The law forbade private expenditures by supporters of a candidate but he and his agent could not be held responsible for such actions if it could be shown that all reasonable means were employed to prevent them. Expenses incurred during a campaign had to be presented for payment within one month following election day and paid by the agent within fifty days of the poll. Payments after that date needed the approval of a judge and were to be separately reported by the agent. A

detailed sworn statement of a candidate's election finances was submitted to the constituency returning officer by his agent within two months of election day, and confirmed within ten weeks by the candidate's sworn statement. This declaration (form 61) had to record all payments made by the agent, the candidate's personal expenses, disputed claims, unpaid claims and all monies or their equivalent given to or promised to the agent showing the contributor and the amount and form of this support, all of which was to be accompanied by the appropriate bills and receipts. The constituency returning officer was instructed to publish a summary of the report in a newspaper circulating in the constituency concerned. The declarations and the supporting documents were to be available for public inspection for 6 months at a nominal charge.

Legal sanctions could be imposed for failure to submit a report, including a fine not exceeding $500 or imprisonment up to one year or both. Failure to pay the fine could lead to imprisonment for a term not exceeding 3 months. Further fines could also be imposed on a successful candidate for every day on which he sat or voted in Parliament without having submitted a report. Falsification of a report with intent to mislead was an indictable offence subject to fine and/or imprisonment. The election of a successful candidate could be nullified and the offender disqualified from being elected to, or sitting in, the

House of Commons for 7 years for a corrupt and 5 years for an illegal act, whether personally guilty or for having allowed the official agent concerned knowingly to commit such offences. But this law like its forebears did not assign responsibility for enforcement to anyone in particular.

The weaknesses of the pre-1974 federal law arose out of the narrowness of the reporting requirements, the failure to recognize the existence and role of political parties, and the lack of any enforcement machinery worthy of the name. The law covered only candidate income and expenditures. The far larger amounts of money which passed through national or provincial party organizations were ignored. Since the candidate's declaration, for which failure to file was never prosecuted, combined small local donations plus lump sums received from party associations and fund-raisers at other levels, these reports were not only useless but deceptive. Important and large givers were not disclosed. Parties did not have to reveal their national or provincial expenditures on advertising campaigns through the mass media, the cross-country tours of party leaders, the salaries of party organizers and other administrative expenses. The law, furthermore, contained no provisions to limit or control expenditures, either by item or in toto. Practically no assistance was given to parties and candidates by way of direct subsidies, other than the absorption by the state of the costs of the enumeration of voters, the payment of certain poll-workers, and

the allocation of free broadcasting time to the political parties by the publicly owned Canadian Broadcasting Corporation during campaigns. Tax advantages for donations to parties and candidates were non-existent. Gaps also existed in the rudimentary reporting provisions. Nor was the form of publication such as to provoke the interest of scholars and journalists, coming long after the election in fragmented non-comparable form. The absence of a verificatory procedure for candidate declarations made a mockery of the reporting of candidates' expenses, the one aspect of the old Canadian law which might have been effective.

Until Quebec pioneered a major reform in the approach to election expenses in 1963 provincial legislation in this area generally followed the path traced by the federal parliament including the federal doctrine of agency. In some respects provincial legislation went beyond the limits of federal legislation. Several provinces required that party contributions and expenses be reported and Manitoba went so far as to prohibit contributions from any company or association "having gain for its corporate object". The historical development of provincial law is beyond the scope of this study but a comparative analysis of both Canadian federal and provincial election expense legislation at the present time is provided in a later section of this paper.

The Movement for Reform: On October 27th, 1964, the Hon. Maurice Lamontagne, then Secretary of State, rose in the Canadian House of

Commons to announce the establishment and composition of an "Advisory Committee to Study Curtailment of Election Expenses." The task assigned by the Minister to this "small group of men with practical experience and expert knowledge" was to "inquire into and report upon the desirable and practical measures to limit and control federal election expenditures". The Secretary of State prefaced his remarks with the statement that this was "a complex problem which affects the very basis of our democratic system", one which had "become particularly important these last few years due to the increase of communication media, especially since the advent of television". The committee's formation was welcomed by the spokesmen for all parties in the House of Commons. The Leader of the Opposition and former Conservative Prime Minister, the Rt. Hon. John George Diefenbaker declared that the "object is one that will commend itself not only to members of the House and defeated candidates but also to the public as a whole". He too stated that the rising costs of the mass media were contributing to the rise in campaign expenditures which "renders it very difficult for an average Canadian to take his part in public life". For the New Democratic Party, T. C. Douglas greeted the establishment of the Committee and hoped that the recommendations would include not only measures to restrict campaign costs but "also disclosure of the sources of campaign funds". The Social Credit spokesman and M. Réal Caouette, leader of the Ralliement

des Créditistes, concurred in the Committee's establishment, but the latter doubted that it would lessen the grip of the "finance barons" on the major parties.

The Committee was established in response to growing public concern about the sources of party funds--the Rivard Affair was being investigated at the time--and partially as an answer to the demand by some political leaders for reforms which would check the sharp rise in election costs and obviate the need for recourse to special and questionable interests for the needed funds. The Salvas Commission in Quebec and other investigations had uncovered a series of malodorous scandals at both the provincial and federal levels involving all the major and minor parties and the methods used to collect campaign funds. The underlying situation exposed by the investigation of these scandals prompted a re-examination of the traditional methods of financing Canadian political parties and a demand for legislation to stem the spiralling costs of campaigns. Although most provincial election expense legislation had been a derivative of federal law, the demand for change was reinforced by reforms undertaken in the province of Quebec. The death of the long-time Premier of Quebec, Maurice Duplessis, and the fall from power of his notorious right-wing Union Nationale Party in 1960 set the scene for the introduction of what for Canada was a wholly new approach to election finance. The Quebec Liberal Party made campaign

finance reform a central plank in its platform for the 1960 Quebec general election. After assuming office the Quebec Liberals commissioned a report on electoral reform. This report was discussed at a convention of the Quebec Liberal Federation which laid the groundwork for the introduction of a Bill in the Quebec Legislature in 1962. The new Quebec Election Act was adopted on July 10th, 1963. This Act provided for the recognition of political parties, set limits on the spending of parties and candidates, transferred certain polling day costs to the state, and embodied the revolutionary idea of subsidizing the costs of local constituency campaigns for qualifying candidates by a system of reimbursements from the provincial treasury. With this legislation Quebec joined those jurisdictions like Puerto Rico, the Federal Republic of Germany and Sweden which had introduced the concept of subsidies for candidates and/or political parties from the public purse. This initiative as well as the problems and burdens discussed above appear to have prompted the Liberal Party of Canada to include the reform of campaign finance in its platform for the 1963 general federal election. Following the Liberal Party's return to office steps were taken to carry out this promise which was presaged in the Speech from the Throne at the opening of the 1964 Session of Parliament.

The Advisory Committee on Election Expenses consisted of five men, representing three political parties--the Liberals, the Progressive Conservatives and the New Democrats. It included two former Members of

Parliament, two prominent political organizers and a noted author and student of Canadian government and politics. The chairman was M. Alphonse Barbeau who had chaired the Liberal Party commission which had recommended the reforms enacted in Quebec. Supplementing the Committee was an administrative staff and a research team under the author of this study. The Committee took a broad view of its terms of reference and produced the most detailed exploration of party finance undertaken by any public body in the democratic world. These studies were embodied in two lengthy volumes which supplemented and supported the Committee's proposals. The findings of the Committee and its suggestions have helped determine the shape of federal and provincial legislation concerning election expenses and campaign finance for the past decade. The Report of the Committee on Election Expenses was tabled in the House of Commons by the Hon. Judy LaMarsh, then Secretary of State, on October 11th, 1966. The recommendations occupy 28 pages of the 528 page text. Although too lengthy to analyze here, their influence on subsequent Canadian legislation warrants the following summary in the Committee's own words:

> I. Political parties should be legally recognized and through the doctrine of agency, made legally responsible for their actions in raising and spending funds.
>
> II. A degree of financial equality should be established among candidates and among political parties, by the extension of certain services and subsidies to all who qualify.

III. An effort should be made to increase public participation in politics, by broadening the base of political contributions through tax concessions to donors.

IV. Costs of election campaigns should be reduced, by shortening the campaign period, by placing limitations on expenditures on mass media by candidates and parties and by prohibiting the payment of poll workers on election day.

V. Public confidence in political financing should be strengthened, by requiring candidates and parties to disclose their incomes and expenditures.

VI. A Registry under the supervision of a Registrar should be established to audit and publish the financial reports required, and to enforce the provisions of the proposed "Election and Political Finances Act."

VII. Miscellaneous amendments to broadcasting legislation should be enacted to improve the political communications field.

Nine years were to pass before any of these proposed reforms found their way onto the statute books. The change in Liberal Party leadership with the retirement of the Rt. Hon. L. B. Pearson and the overwhelming electoral victory of the Rt. Hon. Pierre Elliott Trudeau appeared to blunt the demand for reform. Nor was a better fate slated for the proposals contained in the Second Report of the House of Commons Special Committee on Election Expenses of June 1st, 1971. Bill C-211 on

Election Expenses tardily introduced on May 16th, 1972, and given First Reading in the dying days of the Twenty-Eighth Parliament by the President of the Privy Council was seen merely as a pre-election sop designed to counter criticism of the government's dilatory steps in this area with no possibility of enactment before dissolution. Although large sections of the press were concerned with the issue, neither the Progressive Conservatives, who formed the Official Opposition, nor important elements of the ruling Liberals were enthused by the project. The current Prime Minister, in his pre-Parliamentary career as a critic and reformer of the political scene, had come to office with a commitment to change in this sensitive area, but like many of his predecessors he developed an increasing coolness to electoral reform the longer he remained in office. However, campaign costs continued to rise during the decade, doubling from the $16 million estimated by the Committee on Election Expenses for the 1965 election to the $35 million which the author has calculated was spent on the 1974 federal election. Scandal and rumour continued to cloud the fund-raising process at federal and provincial levels. In Quebec there were revelations concerning contacts between Liberal politicians, including a murdered Cabinet minister, and alleged underworld characters. In Ontario sums purportedly collected by Conservative fund-raisers from property owners doing business with the provincial government as in the Fidinam Affair

had prompted the provincial Premier William Davis to instruct the Ontario Committee on the Legislature, which had been charged with proposing changes in legislative procedures and practice, to bring in a proposal for the disclosure of campaign contributions. On the federal scene the Liberals had been shown to have developed in 1972 a systematic method, employing well-placed members of the Canadian Senate, for collecting funds in the United States from the headquarters of corporate subsidiaries in Canada, including a purportedly abortive approach to the heads of the giant multi-national International Telephone and Telegraph Corporation whose involvement in Chilean politics was notorious. Although shrugged off by the Liberal bagmen with countercharges that their Progressive Conservative counterparts were doing likewise and claims that the New Democrats received funds from international trade unions centred in the United States, the charges touched a sensitive nerve of an increasingly nationalistic Canadian public opinion concerned about the so-called "corporate rip-off".

But it is to the 1972 campaigns and election results in the United States and Canada that one must credit the final thrust for the passage of Bill C-203 which was introduced and given First Reading on June 22nd, 1973. One of the persistent ironies of Canadian politics is the overspill and demonstration effect of American political developments, not least in the area of campaign finance. The reforms of

the Progressive Era brought about the inclusion of the abortive ban against corporate giving in the Dominion Elections Act of 1908; the Election Expenses Act of 1974 bore the imprint of the complex of events known to the United States and the world as the Watergate Affair. Even more significant were the 1972 election results which produced a minority government with the Liberals dependent on the votes of the New Democrats in order to survive and escape defeat. The fact that the NDP had been pledged to reform, particularly to the disclosure of the sources and amounts of campaign contributions, is of capital importance and explains in great measure the basic difference between the new Election Expenses Act of 1974 and the recommendations in the Report of the Committee on Election Expenses and those of the House of Commons Special Committee of 1970/71 as well as the provisions contained in the earlier Bill C-211 of 1972.

The wave of disquiet about campaign finance had its impact on the provinces as well. Since the early sixties numerous investigative bodies at the party, legislative and administrative levels have contributed to the debate not only in Quebec and Ontario, but in Nova Scotia, New Brunswick, Manitoba, Alberta and British Columbia. In this period no fewer than six provinces have undertaken significant reforms, some even breaking new ground beyond the scope of the new federal act. These reforms, along with those at the federal level, are examined in the following section.

FEDERAL AND PROVINCIAL ELECTION EXPENSE LEGISLATION IN CANADA
A COMPARATIVE ANALYSIS

Since Canadian federal and provincial legislation share a common background and the players move from one electoral level to the other, it is best to examine the details of contemporary Canadian election expense law on a comparative basis. This section endeavours to present an overview of Canadian election expense legislation, both federal and provincial, emphasizing the newer departures in the respective jurisdictions. The principal features and administrative mechanisms are summarized by topic. Although a final judgment regarding these reforms must wait upon further experience over a period of time, some evaluations will be made concerning their efficacy and appropriateness.

Many provinces seek to buttress the probity of the electoral process by strengthening reporting, disclosure and audit procedures. Others try to equalize chances amongst rivals for office through financial aid to parties and candidates with tax incentives for small contributions. Efforts have also been made to reduce costs by shortening campaigns and imposing over-all ceilings or limits on particular types of spending. In some provinces the public treasury has absorbed costs which would otherwise fall on parties and candidates. Newfoundland and Prince Edward Island have not as yet addressed themselves specifically to the problem of campaign finances but the corrupt

practices sections of their election Acts in effect define legal campaign expenses, breaches of which are subject to legal sanction.

Party and Candidate Agents: Most provinces have adopted the federal doctrine of agency that dates back to the 1870's. This imposes responsibility for the collection and disposal of funds on a single party or candidate agent; all payments other than for personal expenses must be made through the official agent whose name must accompany the official registration of the party or nomination papers of the candidate. In the provinces, these agents go by various names: business manager in Saskatchewan or chief financial officer in Ontario. Candidates may act as their own agents in British Columbia and Prince Edward Island, whereas in Newfoundland such appointments are merely permissive not mandatory. The federal Election Expenses Act permits a candidate to spend up to $2,000 in addition to travelling expenses during a campaign beyond the amount which must be reported as an election expense through the official agent. In the provinces such personal expenditures must be "bona fide" and "reasonable" or "ordinary", "proper", or "necessary" sums paid for the rents of halls, travel or maintenance costs of candidates and speakers, hire of conveyances and drivers for the personal use of candidates during the campaign; the burden of proof rests on the candidate himself. But Newfoundland makes no distinction between personal and other campaign expenditures.

Emphasis has shifted from candidate expenditures to the amounts and sources of party funds. The doctrine of agency has been extended, in the light of experience and innumerable scandals, to cover the expenses and fund-raising activities of the central party organizations. Specific individuals are now held accountable and made subject to public supervision and, in case of violations, to legal sanction. To facilitate control, the federal government and all the provinces except Newfoundland, Prince Edward Island, Alberta, and British Columbia provide for the "recognition" or "registration" of political parties; only these are permitted to raise and expend monies for electoral purposes through their registered agents. Such parties are required to apply to the appropriate Chief Electoral Officer or Commission setting out the full name of the party and/or its usual abbreviation, the names and addresses of the recognized party leader and other party officials, the location of party offices where party records are held, and the names and addresses of the chief and other financial agents of the party; in Ontario and Saskatchewan statements of their financial position at the time of application must also be submitted.

The federal act provides that to maintain its status a registered party must have at least twelve Members of Parliament prior to dissolution, or present fifty or more candidates at a federal election.

Recognized parties in Nova Scotia and Quebec are defined as the party of the provincial Premier or of the Leader of the Opposition; or one which presented at least ten candidates in the previous or current provincial general election. New Brunswick and Saskatchewan set a similar minimum, but Manitoba has no such limit. However, Ontario has an elaborate set of requirements: a registered party must have a minimum of four seats in the current Legislative Assembly; or it must have fielded candidates in half the constituencies in the most recent election or a similar proportion in the current campaign; and at times other than campaigns, a party must be registered if it lays before the control Commission a petition signed by 10,000 eligible voters. De-registration and loss of status may follow in all the jurisdictions from failure to comply with the reporting and other obligations demanded of the parties.

Election Expenses: Most provinces leave the definition of illegal payments to the corrupt practices sections of their election laws. However, Canadian federal law and British Columbia do define legal election expenses. For the latter, these are limited to a candidate's personal expenses, advertising, printing, stationery, postage, telegrams, delivery of notices and messages, public meetings, costs of committee rooms, transport of voters in a constituency and payments to poll clerks and scrutineers; by implication others are illegal.

There is considerable variation between the provinces. One may permit what another forbids. On the other hand the federal act provides a detailed definition of the "election expenses" which may be incurred during the campaign period in the following terms:

> (a) amounts paid, (b) liabilities incurred, (c) the commercial value of goods and services donated or provided, other than volunteer labour, and (d) amounts that represent the differences between amounts paid and liabilities incurred for goods and services, other than labour, and the commercial value thereof where they are provided at less than their commercial value,...(namely) ...the cost...of promoting or opposing, directly and during an election, a particular registered party, or the election of a particular candidate, and...includes (e) the cost of acquiring the use of time on the facilities of any broadcasting undertaking...or of acquiring the right to the publication of an advertisement in any periodical publication for any such purpose, (f) the cost of acquiring the services of any person, including the remuneration and expenses paid to him or on his behalf, as an official agent or registered agent or otherwise, except where such services are donated or provided at materially less than their commercial value, (g) the cost of acquiring meeting space, of provision of light refreshment and of acquiring and distributing mailing objects, material or devices of a promotional nature, and (h) the cost of goods or services provided by a government, crown corporation or any other public agency....

Disclosure of Party and Candidate Expenditures: Formal declarations respecting election expenses must be submitted by candidates and their agents in Canada and nine of its provinces within a prescribed period following polling day or the return of the election writs. The period specified by law for the receipt of forms by the constituency returning officers or the Chief Electoral Officer or commissioner concerned ranges from two to six months depending on the jurisdiction. Provincial and federal law assures that these declarations accompanied by the relevant bills, vouchers and receipts shall be subject to public inspection at nominal or no cost, that summaries be published at public expense in newspapers circulating in the respective constituencies, and that complete statements or summaries be forwarded to the official or body charged with their verification. At the federal level and Ontario, the candidate declarations (and statements of constituency associations) must be accompanied by a report prepared and attested by a professional auditor. The new concern with the limitation of costs and the public subsidization of campaigns has renewed interest in candidate expenditures. The fountainhead of political scandal has most often been the source and impact of party funds but the search for equity and wider participation in the electoral process depends on limiting candidate costs which may be achieved in part with the assistance of disclosure and publicity.

Alberta, Newfoundland and Prince Edward Island neglect the existence of parties. British Columbia, New Brunswick and Nova Scotia take note of their financial activities only during campaign periods. On the other hand, Ontario, Manitoba, Saskatchewan, Quebec and the federal government do take cognizance of the ongoing activities of political parties. Thus a party in British Columbia is defined simply as an organized affiliation of electors which has spent money in support of any candidate in an election. The central committee of every B.C. party must supply the Chief Electoral Officer with detailed statements regarding elections expenditures within 60 days of polling day. No verification is required but there is some publicity by way of summary published with the printed official Statement of Votes. New Brunswick, Nova Scotia, and Quebec require formal statements of election expenses backed by supporting documents within a fixed period following a general election. Summaries are published in the provincial Gazette and the original returns and accompanying materials are made available for public inspection.

As part of a system of monetary aid to legislative parties meeting certain qualifications (discussed below) Quebec now requires that the beneficiaries file financial reports with the provincial Chief Returning Officer with respect to their ongoing administrative costs. However, these reports with their supporting materials are

not disclosed and must be returned to the parties concerned together with their monthly subsidies.

Manitoba, Ontario and the federal government require reports from recognized or registered parties, one following each election --two months after for Manitoba, six months after for Ontario and the Ottawa government--and annual audited statements for regular expenditures. Saskatchewan demands that chief party agents submit statements within six months of a provincial general election including data concerning their ongoing administrative costs. In each case provision is made for inspection, disclosure and publicity through official Gazettes, reports of Commissions or Chief Electoral Officers.

In Manitoba and Saskatchewan, the Chief Electoral Officer must be supplied with detailed information by the mass media concerning the amounts and charges for advertising material published or broadcast in behalf of each party or candidate. At the federal level similar information must be submitted respecting broadcasting time sold to the recognized parties during election campaigns. Each printed item or program must clearly identify the source and sponsor of the advertisement to disclose the true identity of those who are promoting parties and candidates and their financial backers; here responsibility falls on each broadcaster, licensee, publisher or printer. At the federal level

the reporting of television and radio advertising costs are an integral part of the system of partial reimbursement of such expenditures to political parties.

In Ontario the registered constituency associations of parties must also follow procedures similar to those imposed on parties and candidates.

Expense Ceilings: Expenses may be limited in two ways. Qualitative or quantitative restrictions may be imposed. Treating and gift giving may be banned by being included in a list of so-called "corrupt practices". Or limits may be placed on the amount of particular services, time or space which may be used for certain campaign purposes. Similarly monetary ceilings may be imposed restraining total expenditures or spending on particular objects. The federal act sets a limit on the amount of broadcasting time which may be purchased during elections. On the other hand, federal and provincial law tends to prohibit spending during campaigns by all individuals and groups other than parties, candidates and their agents with a view to fixing responsibility for the financial aspects of campaigns.

All jurisdictions prohibit certain kinds of expenses as corrupt; only British Columbia tries to define what constitutes

lawful expenditures, presumably outlawing all others. Ontario, however, is the only jurisdiction which purports to limit spending by exclusive concentration on advertising costs. After an election is called, spending on the mass media--print, display and broadcasting--is limited to the 21 days immediately preceding the day before polling day. But the limits are very generous with each registered party permitted outlays of 25 cents per elector in the aggregate of constituencies in which it presents an official candidate during a general election (50 cents is permitted to a party in each by-election); in addition each candidate or his riding association can spend a further 25 cents per name on the revised constituency list of electors. Thus expenditures of $5 million could have been made by each party and its candidates in the last provincial general election for campaign advertising.

By contrast the federal act aims for equity (not equality) among the political parties in the allocation of broadcasting time. (Candidates are not covered by this proviso, nor does it extend to the print or display media.) Each broadcaster must provide a total of six and one half hours of prime time for sale to the registered parties, to be allocated amongst them by the

Canadian Radio-Television Commission for use in the four weeks prior to the day before polling day. Half the cost of the time purchased by the registered parties is reimbursable from the public treasury at the regular standard rate charged for such time as certified by the CRTC. The principle of allocation will roughly follow the proportion of the vote received by the party in the previous general election, a practice long followed in Canada by the publicly owned Canadian Broadcasting Corporation which will probably continue to provide free time to parties, as do its private counterparts. The value of this assistance to the parties by way of reimbursement will likely be $2 million during the next federal election.

It should be noted that Ontario, Nova Scotia, Quebec and federal law prohibit the mass media from discriminating between parties and candidates with respect to advertising rates, which must be the lowest for similar space or time.

Canada, Manitoba, Nova Scotia, Quebec and Saskatchewan have sought to reduce costs by imposing over-all campaign expenditure limits on parties and candidates related to the number of electors in their respective districts. Each recognized party in Saskatchewan may spend not more than $175,000; whereas the

federal law, Manitoba, Nova Scotia and Quebec permit party expenditures of 30 cents, 8 cents, 40 cents and 25 cents, respectively, multiplied by the number of electors in the aggregate of seats in which each party has candidates. At the candidate level, Manitoba imposes a flat rate limit of 40 cents per elector in a riding; whereas the federal government and the other three provinces have sliding scales linked to the number of voters and geography of the districts. Candidates in Nova Scotia may spend no more than $1 in respect of each of the first 5,000 in their ridings, plus 85 cents for each of the next 5,000 and 75 cents for each elector over 10,000. Quebec candidates may spend 60 cents for each of the first 10,000 electors, 50 cents for each of the next 10,000 plus 40 cents for each above that number; an additional 10 cents per elector is permitted in four large remote districts. Candidates in southern Saskatchewan ridings may spend $10,000 or $1 per eligible voter, whichever is larger; in northern ridings the limit is $15,000 or $2 per elector. At the federal level, the candidate ceiling is $1 for each of the first 15,000 names on the electoral list, 50 cents for the next 10,000 and 25 cents for each elector in excess of 25,000. In by-elections several provinces permit additional spending either at party

or candidate level. The generosity of these limits may be seen in the fact that in Nova Scotia in 1974 a party together with a full slate of its candidates could have spent almost $730,000; in Quebec all parties and candidates in 1973 could have spent a total sum of almost $12,000,000. Had the federal act been in effect in 1974, a federal party together with its full slate of 264 candidates would have been permitted expenditures totalling about $11.5 million.

On the other hand, neither the provinces nor the federal authorities have seen fit to place ceilings on central party or riding association spending outside the campaign period for ongoing organizational and administrative costs.

Candidate and Party Subventions: The federal government and the provinces of Quebec, Nova Scotia, Saskatchewan and Ontario assist serious candidates in elections by reimbursing some of their outlays. In addition, the federal law provides for the repayment of half the costs of broadcasting time purchased by registered parties. Only the province of Quebec has undertaken to meet some of the maintenance or the administrative expenses of legislative parties between campaigns. No other direct assistance is provided to parties in Canada. At the candidate level

all those who win or have gained at least 15 per cent of the votes cast are eligible for reimbursements in three of the provinces and federally; in Quebec candidates must receive 20 per cent of the vote or must have run under the banner of parties whose local nominees won the greatest, or next-to-greatest, number of votes in the previous election notwithstanding their current results. Qualifying candidates are entitled to subsidies after they have complied with the relevant reporting procedures laid down in their respective jurisdictions.

Payments to eligible candidates may be on a flat rate or sliding scale basis. In Nova Scotia those who qualify receive 25 cents for each elector appearing on the official list in the constituency. Saskatchewan candidates are entitled to 15 cents multiplied by the number of electors in the district or 50 per cent of permitted expenses, whichever is lower, except in far northern districts where the latter formula applies. Quebec candidates may be reimbursed at the rate of 15 cents per listed elector, plus one-fifth of actual costs between 15 and 40 cents, and all expenditures over 40 cents per elector to the allowable ceiling on expenditures. A clause in the Quebec law for the payment of scrutineers in local polling stations gives a further subsidy to the two largest parties who benefit as seen above from the definition of eligible candidates. The

subsidy provisions of the new Ontario Act follow the language of the federal law whereby candidates may be repaid the lesser of actual expenses or the sum of 16 cents multiplied by the first 25,000 names on the list of voters plus 14 cents for each name over that number. (The federal act defines the subsidy in terms of the cost of first class postage for a one-ounce mailing item, plus 8 and 6 cents respectively for each voter below or above the 25,000 number.) In addition, Ontario and federal law provide for the repayment of travel costs in amounts up to $2,500 and $3,000 for large and remote constituencies. All candidates who conform with the law are also entitled to $250 federally and $500 in Ontario to cover the mandatory auditors fee for verification of post-election declarations; in Ontario local registered riding associations will also get $250 to cover the cost of their annual audits.

As noted above the only direct public subsidy offered to political parties during election campaigns is made available at the federal level in the form of the reimbursement of half the costs of allocated television and radio broadcasting time purchased from private stations and networks. No like provision exists at the provincial level. The province of Quebec, on the other hand, has once again pioneered a new departure in

Canadian law by recently enacting legislation for partially funding the administrative, organizing and propaganda expenditures of provincial political parties between elections. For the first time a Canadian legislature has recognized the role of and assumed some financial responsibility for the extra-parliamentary activities of parties (whereas the needs and costs of legislative party caucuses, for example, research expenses, have been covered for some time at both the federal and provincial levels).

On December 19, 1975, the National Assembly of Quebec (Third Session, Thirtieth Legislature) passed Bill No. 9--an Act respecting the financing of political parties and to again amend the Election Act (section 36 added Articles 390a, b, c, d, e, f, g, h, i, spelling out the provisions, and section 44 backdated payments to January 1st, 1975). The provincial Chief Returning Officer is instructed to pay an allowance to each political party represented in the National Assembly by no less than 12 Members, or to one with lower representation who had obtained at least 20 per cent of the total number of valid votes cast in the last provincial general election, or failing which had been represented in the previous Legislature. The allocation per party is computed by prorating the sum of $400,000 according

to the percentage of the votes received in the last election; since no party is to be granted less than $50,000 regardless of its total vote, the basic sum may be higher. In the words of the Act this assistance to the parties is to help "pay the costs of their current administration, to propagate their political programmes and to coordinate the political activities of their members". The allowances are to be paid monthly to designated representatives of the parties against costs actually incurred on the presentation of vouchers and supporting documents. Only the Chief Returning Officer and his auditing agent will have access to the detailed party reports and a mere précis of the amounts paid is noted in the Quebec Gazette. The annual sums disbursed amount to $439,488: the Parti Libérale receives $218,612, Parti Québecois $120,876, the Créditistes $50,000, and the Union Nationale $50,000; in 1975 only the Liberals had 12 or more members; the others benefitted from the 20 per cent or previous membership provisions.

Regulation of Party and Candidate Income: Three provinces and the federal government have taken steps to assure the disclosure of the amounts and sources of party and candidate funds. Manitoba bans seeking or taking funds from profit-making corporations. Official agents must submit annual and post-election statements

revealing the sources, destination and amounts of all contributions of over $50 to candidates and over $100 to parties. These are to be made public by the Chief Electoral Officer, who may require documentary proof of all donations over $1,000. In Saskatchewan gifts may be made to a party or candidate solely through a party agent or a candidate's business manager; detailed records must be kept concerning the amounts received from different classes of giver; membership fees are narrowly defined and all contributions over $100 must be revealed in audited reports to the Chief Electoral Officer who must make them available for inspection together with publication in summary form.

The new Ontario Act is distinctive in that the controls embodied therein focus largely on the income side of the ledger. It is the only jurisdiction which places ceilings on the amounts which may be given to parties and candidates in campaign and non-election periods. Donations may only be made to duly registered agents by individuals, trade unions and corporations domiciled in Ontario; inter-party transfers from federal to provincial level are subject to strict financial limitations. Annual gifts from a particular source may not exceed $2,000 to each registered party or $500 to any one constituency association to an aggregate of $2,000 to the local entities of any one party. During an

election campaign additional equivalent money gifts may be given to parties and their candidates, doubling the sums involved. Payments by candidates in their own behalf and gifts in kind or services exceeding $100 in market value are treated as reportable contributions subject to full disclosure as in the case of monetary contributions which must be made by cheque to depositories registered with the control Commission. Membership fees and union check-off funds are subject to stringent regulation, so much so as to bear most heavily on the New Democratic Party which depends for monetary aid on its trade union affiliates. On the other hand, the Ontario Act has gone to some lengths to permit the governing Progressive Conservative Party and the Liberals to conceal the source and amounts of funds raised prior to the going into effect of the Act, which was back-dated to February 1975; the device resorted to by the old parties being the creation of foundations and trusts whose assets are not subject to public scrutiny.

By contrast the federal act places no ceiling or prohibitions on the amounts or sources of party and candidate funds. The annual and post-election statements required of federal parties, however, must list the amounts of all gifts in excess of $100 and the names of their donors arranged by class of giver--individuals,

trade unions, public corporations, corporations without share capital, unincorporated organizations and associations, with the number per class. A similar report is required of a candidate's agent following each election; where the sums come from a local party association, a similar detailed breakdown must accompany the candidate's audited statement. These statements which may be copied for a nominal fee are subject to public inspection and a summary of the candidate's statement must be published in a newspaper circulating in the constituency concerned.

Together with disclosure, the key control procedure in all the jurisdictions is the doctrine of agency which pinpoints responsibility for the collection as well as the spending of funds.

Tax Stimuli For Political Giving: The only province to copy the federal system of tax credit so as to encourage individual donations to candidates, parties and their local associations is Ontario, which has extended the system to corporate gifts. On the evidence of proper receipts the Canadian and Ontario Income Tax Acts allow a person to claim a credit for contributions to federal or provincial parties or candidates, respectively, amounting to 75 per cent of the gifts up to $100; $75 plus 50

per cent for aggregate gifts from $101 to $550; $300 plus one-third of gifts over $550, or $500 whichever is smaller. Tax credits of $1,150 are thus available to Ontario residents who contribute at both levels. In addition Ontario corporations may deduct a maximum of $4,000 from the provincial share of their taxable income in calculating their Ontario corporation taxes for donations to Ontario parties and candidates and such deductions may be carried forward to subsequent tax periods.

The tax credit system has not been adopted by other provinces although there is considerable evidence that provincial affiliates of federal parties have exploited the opportunities made available by the federal act through inter-party transfers.

Control Systems: The regulatory procedures adopted by Parliament and many provincial legislatures have had a profound effect on Canadian parties. Elaborate record-keeping and reporting mechanisms have encouraged the professionalization of party structures and there is some evidence of a tendency toward the formalization of the Canadian party system. The process is uneven but the trend is apparent, although a final verdict would be premature. A preliminary examination shows that only Ontario has a control body sufficient to the regulatory tasks imposed

upon it; whether it fully exercises its powers, however, is another question.

Federal and other provincial laws leave the regulation and enforcement of election finance laws to their respective Chief Electoral Officers, although federal legislation does provide for a subordinate Commissioner. But some of these officials are uneasy about their newly expanded role inasmuch as it appears to conflict with the quasi-judicial stance required for their principal function. On the other hand, the Ontario Commission on Election Contributions and Expenses, composed of nominees of the major legislative parties, a Bencher of the Law Society, the Chief Electoral Officer and a Chairman and Vice-Chairman with considerable prestige and security of tenure, does seem in form at least adequate to its task. That it may well be a model for other jurisdictions is underlined by the fact that the federal Chief Electoral Officer has been led perforce to establish an ad hoc consultative body representative of the federal parties to advise him with respect to the administration of the Act; indeed, there is evidence that this body will be formalized through a statutory amendment. That the very bodies subject to regulation are able formally and informally to colonize the control institutions is a not uncommon phenonemon

to students of such bodies but it raises questions beyond the scope of this paper, the seriousness of which, however, must not be overlooked.

Concluding Observations: No single law, federal or provincial, examined in this paper can serve as an independent or ideal model for other jurisdictions in Canada or elsewhere. Designed to meet immediate political problems and pressures, these acts nevertheless contain elements which can serve as components for a basic reform of election and party finance.

The legal accountability of parties, candidates and their agents for their financial practices is an essential first step in any reform program, but the efficacy of the legislation has yet to be tested in the readiness of responsible officials to prosecute and the courts to punish violations; a complaisant or coopted control body, no matter its formal authority, can well undermine the intent of any law. Much has been done to remove the mystery surrounding party funds through the enactment of detailed reporting and disclosure provisions, but only Ontario and Saskatchewan have tackled the problem of funds from non-domestic sources and only Manitoba has sought to eliminate the influence of corporate gifts. The federal law attempts to inhibit the swamping of the electorate by advertising on the electronic media

but the Ontario ceilings on advertising expenditures simply invite wealthy parties and candidates to outshout their competitors. Subventions to candidates have introduced a measure of equity to the political process but apart from Quebec no jurisdiction provides direct aid to parties between elections and they remain crippled as formulators and communicators of policy and programs, and the electorate remains largely ignorant of alternative options. Tax incentives may encourage giving in Ontario and on the federal level, but it has yet to be shown that the older parties can organize mass fund-raising and abandon their dependence on business sources. Publicity and disclosure are helpful but the control bodies appear to take an accounting rather than an analytic or scholarly approach to the data at their disposal. A plethora of facts can confuse as well as illuminate if presented in indigestible form.

Probity, openness and equity have been fostered but significant reductions in campaign costs have yet to be achieved in Canada and its provinces. Solutions must yet be found to stimulate greater participation in the electoral process which is the only substitute for the tactics of violent confrontation.

POLITICAL FINANCES AND THEIR CONTROL ABROAD
A SELECTIVE SUMMARY SURVEY

In most of the democracies of the Western type the great bulk of the funds required by political parties for the conduct of election campaigns and the maintenance of their inter-election organizations at the national and local levels have been derived from interest groups and business corporations notably the trade associations of organized business, trade unions and special conveyor or "sponsor" groups formed especially to serve as conduits for election funds. For a long time the social democratic and labour parties of Europe and the Commonwealth drew considerable support from the membership fees assessed and systematically collected on a weekly, monthly or annual basis from their associates; but such resources while still important are playing a declining role in the total pool of funds and such groups as the NDP or the British Labour Party, or their counterparts elsewhere, have become increasingly dependent on assistance from organized labour. Similarly individual contributions to centre, conservative, liberal and right-wing parties have declined in significance in contrast with monetary aid from the business community. The recent revelations to American public bodies of the "corporate Watergate", i.e.

enormous sums paid to Italian, Japanese and other political parties and politicians by U.S.-based multi-national corporations and the uncovering of sub rosa payments by the U.S. Central Intelligence Agency to Italian and other political parties, only serve to underline the diminishing part played by individual gifts to party campaign chests, in addition to the impact and questionable influence such foreign-based giving has upon the domestic affairs of states. The evidence of such support given to centre and right-wing groups in the effort to stem political changes thought undesirable by the givers or their backers had its parallel in the well-worn rumours of "Moscow gold" purportedly transferred to western Communist parties and the better-documented evidence of sums given to moderate left-wing parties through the organs of the U.S. based A.F.L./C.I.O or the recent transfers to Portuguese political parties through agencies of the German Social Democratic Party.

No matter what one thinks of the political morality displayed by the above-mentioned activities, it is clear that they bespeak a serious financial crisis facing the party systems of the countries concerned. A full analysis of the roots of the difficulties which have prompted the recourse to these questionable sources of funds would require a detailed study of the

history of these states, the structure of their economies, their political cultures and the norms of political good form which guide the actions of their parties and political leaders. Obviously, this is beyond the scope of the present study. Suffice it to say that the problem is so common and pervasive that one can hazard the opinion that the explanation is to be found in the evolving economic and social structures displayed by late capitalist or post-industrial societies. This is not to say that electoral corruption did not, or does not, exist in underdeveloped or immature industrial states, rather that the source of the problem and its resolution has peculiar features of its own.

It should be noted that the recent scandals had been preceded by acute financial crises for the parties in many European states such as West Germany and Sweden, as well as others such as Puerto Rico. In some instances the parties sought to develop auxiliary sources of funds through commercial subsidiaries which turned over a large share of their "profits" to their parent parties for political work and electoral purposes; such methods have been used in Italy, Israel and France amongst others. But the continuing financial shortages have encouraged recourse to public funds through a variety of subsidy systems.

The Quebec model adopted in 1963 follows the pioneering effort first introduced in Puerto Rico in 1957. Since that time over half the Western democracies have adopted subsidy systems of various kinds for the financing of electoral campaigns and the ongoing activities of parties. The initiative for these measures has not been confined to parties or regimes of one particular political stripe. In Germany subsidies were introduced by the Adenauer Christian Democrats over the opposition of the moderate left Social Democrats. In Quebec the system was enacted by the Liberals, in Sweden by the Social Democrats, in Italy by the Christian Democrats. Both extremes of the political spectrum have at various times and places benefitted from the innovation. In the country by country analysis which follows stress will be placed on those countries which have adopted subsidy systems but several others will be briefly reviewed by way of contrast.

Great Britain: The bulk of party funds in the United Kingdom are derived from special interest groups affiliated to one or other of the parties, which in effect means the Labour or Conservative Party. The Liberals and the various nationalist splinter groups are, on the other hand, dependent largely on the

good will of a few wealthy individuals or their supporters. (some firms like Marks and Spencer and GEC do, however, give a modicum of support to the Liberals). In 1974-75 the following 12 firms were the biggest supporters of the Conservatives, giving sums ranging from £25,000, to £62,500: Commercial Union Assurance; Swan Hunter Group; Newarthill; RankOrganisation; Guest, Keen and Nettlefolds; Charter Consolidated; Tate & Lyle; Baring Brothers; Eagle Star Insurance; Fisons; Ranks Hovis McDougall; Allied Breweries. Labour clearly gained the bulk of its financial aid from its affiliated trade unions with the biggest donors in 1974 transferring sums ranging from £15,000 to £150,000 including: Transport Workers (TGWU); Engineers (AUEW); Municipal Workers (GMWU); Electricians (EETPU); Shopworkers (USDAW); Miners (NUM); Building Workers (UCATT); Postal Workers (UPW); Railwaymen (NUR); Managerial Staffs (ASTMS); Public Employees (NUPE); Clerical Workers (APEX). Despite these relatively large sums even by Canadian terms, British parties are facing increasing financial difficulties. In the last two decades there has been a sharp fall in individual memberships in the parties and an even sharper drop in receipts from individual dues. In 1972-73 each of the major parties received approximately three-quarters of its income from organized or incorporated sources.

British parties tend to maintain elaborate central party headquarters and a far-flung system of local party agents. Rising costs and shortages of funds have seen a cut of over 60 per cent of the number of Labour agents and about one-third in the number of Conservative agents in the past 25 years. Local constituency contributions of about 8 and 13 per cent for Labour and the Conservatives respectively have done little to relieve the shortfall. When it is borne in mind that due to British electoral law local spending during campaigns is tightly restricted the continuing shortages of funds which limit inter-election spending and local organizing can be crippling. Professor Richard Rose has estimated that at 1974 prices a major British party required a minimum of £6.65 million to maintain itself at all levels. He estimated that the Tories fell about £2 million and Labour £5 million short of the required amount, with the Liberals having only about 10 percent of the calculated requirements.

The burden of fighting two general elections in one year in 1974 finally led to official recognition of the financial crises facing British parties. In January 1974, the British Parliament followed Canadian precedent in allocating sums to

meet the parliamentary expenses of the opposition parties. And in May 1975 an independent committee under the chairmanship of Lord Houghton was established to:

> consider whether, in the interest of parliamentary democracy, provision should be made from public funds to assist political parties in carrying out their functions outside parliament: to examine the practices of other parliamentary democracies in this field, and to make recommendations as to the scope of political activities to which any such provisions should relate and the method of its allocation.

In order to round out the background and provide a measure against which the future recommendation of Lord Houghton may be appreciated, this cursory review of the British situation concludes with a summary of the highlights of existing British legislation governing election expenses.

The current law in Britain places no restriction on the amount or sources of funds which may be contributed to political parties or candidates. Indeed donations to business front organizations such as Aims of Industry, etc., have been given some measure of tax relief. Contributions to the anti-steel-nationalization campaigns in the fifties, for example, were

declared tax-deductible on the ground that such expenses were related to the purposes of the companies involved. The law at present does not require the disclosure of the sources of funds. But trade unions must report election expenditures to the Chief Registrar of Friendly Societies insofar as they manage specific political funds. Some efforts have been made to restrict trade union political activity in the U.K. Following the 1926 General Strike, the Conservatives amended the Trades Disputes Act in 1927. The unions' financial assistance to the Labour Party was weakened by the substitution of an "opting in" formula for the assignment of dues. Check-off funds could continue to be used for political purposes but each union had to obtain the personal specific consent of each member before assigning his dues to the Labour Party. This restriction was removed when the Labour Party returned to office in 1945: the old "opting out" formula was reintroduced and the onus placed on each union member who now had to take the initiative if he did not wish his dues to be turned over to the Labour Party.

Like the old Canadian law, British legislation takes no cognizance of the existence of parties at the electoral level; therefore no limitations have been placed on their activities except where these may be attributed to the benefit of a

particular candidate. On the other hand, the United Kingdom has imposed a drastic statutory restriction on the election spending of candidates at the local level. Ceilings were first enacted in The Corrupt and Illegal Practices Prevention Act, 1854. Revisions and tighter restrictions were made in 1868 and 1883, and in 1918 with the passage of the Representation of the People Act, the law of agency was strengthened and the making of any expenditure in behalf of a candidate without the express consent of the latter's official agent was made an offence. Thus ceilings on spending were linked to the doctrine of agency. Election costs do appear to have fallen due in part, too, to the strengthening of the provisions against corrupt practices and the accountability of the candidate's agent. In the 1974 general election campaigns, each candidate was permitted to spend a maximum of about $2,365 plus 13 cents for every six electors in rural or county ridings, or 13 cents for every eight electors in urban or borough constituencies. Only the candidate's agent may incur costs in his behalf, and the agent is accountable for all spending in the candidate's riding. In many cases the agent is a full-time official who is engaged and paid by the party, except for the campaign period itself. Thus the agent's main salary does not appear as an election expense; honesty is maintained because a lapse may

result in the sacrifice of the agent's career. But rising costs appear to have led to evasions of these rigid legislative ceilings. Reporting and the doctrine of agency have discouraged explicit dishonesty, but there has been a tendency for both major parties and their candidates to take advantage of any ambiguity in the law to introduce an element of flexibility with respect to what actually constitutes an election expense. Amongst these may be overcharges in the inter-campaign period to make up for undercharging for goods and services supplied to candidates in the campaign period proper. The definition of "campaign period" in the U.K. is not necessarily the three weeks before polling day; it has been taken to mean any period during which a candidate has begun to campaign actively in his own behalf as found by the courts in the famous East Dorset Case of 1910. Campaigning to one's own advantage including the use of photographs and the mention of names becomes an election expense which must be reported; otherwise evasion would be encouraged through purchases and costs incurred before the official opening of a campaign, an advantage which would be biased in favour of a candidate of the incumbent party which would probably be privy to the date of dissolution.

The British system of legal ceilings on candidate expenses

has serious drawbacks despite the agency doctrine and the reporting requirements discussed below. The limits which are imposed on candidates and not on parties apply only to the period of the campaign. While expenditures made on behalf of a candidate by the central party must be reported as an expenditure of the candidate, nevertheless, the lack of realism in the ceilings has led to the toleration of increasing evasion. The objective was probably to restrict the advantages of wealthy candidates in the interest of fairness. However, regardless of the legal forms most observers and active politicians are aware that in the democratic world including Britain it is the party rather than the candidate which is the main political actor and determines the outcome of campaigns. Thus the stress in British law on the candidate appears somewhat misplaced and anachronistic.

British election law makes provision for the reporting of a candidate's expenditures but avoids and does not cover contributions. Labour reports a substantial proportion of its yearly cash revenues but less information is available regarding the indirect aid it receives from trade unions. Nor is there any compulsion on the Conservative or Liberal parties to disclose the main sources of their financial support. This problem is compounded by the considerable assistance received by the Tories

from advertising campaigns undertaken in their behalf, although ostensibly in support of particular issues, by such industry-related groups as Aims of Industry, the British Iron and Steel Federation and other front organizations; prior to the 1959 general election such groups were reported to have spent four times more than the sum spent by the Conservatives themselves and fourteen times more than the sums spent by Labour on politically relevant advertising. The sources and amounts of these donations must be disclosed and publicized if a true picture of British election finances is to be presented.

At present the British reporting system laid down by the Representation of the People Act of 1949 requires that all spending in behalf of a candidate must be made by or through his official agent. No later than 35 days after polling day, the agent must present the constituency returning officer with a sworn statement of all election costs, together with a declaration of the monies or securities received in order to cover the campaign costs. The returning officer must publish a summary of the report in two newspapers circulating in the relevant constituency; the records must be open for inspection for two years following the election and a booklet is published by the Home Office which summarizes all the returns on a national basis by candidate. Failure to submit

a report may be excused by a court for sufficient cause, but willful failure or delay may result in fines against any successful candidate for every day he sits or votes in Parliament until the offence is corrected. Overspending is illegal and together with corrupt acts is subject to fine and may result in disqualification as an elector, or disqualification as a future candidate, or voidance of the election for a successful candidate; offending official agents may be similarly punished. Prosecutions may be launched by the Attorney-General, the Director of Public Prosecutions, or an individual citizen. But enforcement has not been very strict. Few are charged because initiative has been left to individuals. The expenditure maxima have been generally ignored in line with a "gentlemen's agreement" to desist from attacking one another on this ground by the major parties as borne out by the fact that no election petition to prosecute a false expense declaration has been used by a major British party since 1929.

Finally, it should be noted that although British parties spend considerable sums in inter-election years, spending on the mass media has been minuscule. The publicly owned British Broadcasting Corporation makes available free-time politicals in inter-election and election periods, a principle which has been extended

to the Independent Television Authority which controls the private broadcasting sector. In comparison to the U.S.A. mass media expenditures by British parties and candidates are relatively minor and reflect a completely different attitude toward the use of media.

Recently the Committee under Lord Houghton of Swereby announced its proposals for a far-reaching system of state aid to political parties and candidates in the United Kingdom.* The scheme calls for a system of annual grants to eligible political parties and the reimbursement of the expenses of qualifying candidates for elections to parliament and local county, district and regional governments and its extension to cover elections to the proposed Scottish and Welsh assemblies and the European Parliament.

Annual grants would be made to the central party organizations based on five pence for each vote cast in favour of the party in the previous general election. To qualify a party would, at the previous election, have to have recovered the deposits of at least six of its candidates, or have successfully elected two of its candidates as Members of Parliament, or have elected one Member of Parliament and received as a party no fewer than 150,000 votes.

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*Report of the Committee on Financial Aid to Political Parties, Cmnd 6601: Stationery Office, London, 1976.

If the scheme were in force today the Labour Party would receive £ 573,407; the Conservatives £ 523,234; the Liberals £ 267,340; the Scottish Nationalists £ 41,982; the United Ulster Unionists £ 20,389; the Welsh Plaid Cymru £ 8,317; the Northern Irish Social Democratic and Labour Party £ 7,710. The total grant would amount to £ 1,442,379. It should be noted that neither the Communists nor the right-wing National Front are eligible currently.

At the candidate level, reimbursement would be made to all those who had gained at least one-eighth of the total votes cast in a constituency. The payments would be the candidate's actual election expenses or one-half the legally permitted maximum expenditure whichever was lower. At the last general election in October 1974, the average maximum was £ 1,627; thus the estimated costs of this subvention would be approximately £ 1.5 million, or £ 360,000 annually.

The proposals would provide at national and local levels a total subsidy for the parliamentary parties amounting to £ 2.25 million per year or just under one quarter the sum of over £ 10 million that the committee estimates is raised and spent by British parties in an average year. The report reveals that the Conservatives are better equipped financially and organizationally and

surprisingly show a much higher membership at the constituency level than their main rivals, who have fewer agents, fewer members, and less than half the funds.

Initial reaction to the report was predictable. The well-endowed Conservatives rejected the notion of public subventions to the parties out of hand as foreshadowed by the minority report submitted by one-third of the committee members, an attitude reiterated by Lord Thorneycroft, the party's chairman. The Labour party, on the other hand, welcomed the recommendations as "a small price to pay to maintain our free democratic way of life". The Liberals, although they probably would be the biggest gainers, conditioned their support by making it contingent on their opponents giving up assistance from business corporations and trade unions respectively. The various nationalist parties on the Celtic fringe strongly rejected the notion of state aid, as did the Communist Party. However, a glance at the various factions and supporters of the parties reveals that party opinion is not unanimous on this matter. The Confederation of British Industries, for instance, which includes some of the principal mainstays of the Conservative Party, did favour public support in a limited form. On the other hand, the trade unions showed themselves to be split on the matter despite the attitudes of the party to which they lend

their assistance. Editorial opinion in the leading newspapers, however, was generally unfavourable to the committee's proposals, the Times, Guardian and Telegraph, as well as the Scottish dailies, showing a solid front on the issue.

Given Britain's economic difficulties, the divisions amongst the parties and the weight of editorial opinion, it is unlikely that the scheme will be adopted in the immediate future. However, the financial difficulties of Britain's parties and candidates have not been allayed despite the fact that Conservative monetary fortunes have improved recently. The conditions that prompted the establishment of the committee are common with those in other western democratic states. This being so, the main lines of the report will probably find themselves embodied in legislation before many elections have passed.

Clearly, the Houghton Committee foreshadows a major change in the British approach. The advent of subsidies will almost surely necessitate the recognition of party expenditures and revenues as well as the need for ceilings on particular or general expenditures.

France: Very little is known about party and election finance in France. In many respects this area of public activity remains as it was in much Europe and Japan until recently, a mystery wrapped in an enigma. But it may be taken as a contemporary

example of the system which prevailed in Germany, Italy, Japan, Norway and elsewhere, a system in which "sponsor" or "conveyor" organizations linked with the central business, industrial and financial federations were the principal sources of funds to the non-socialist centre and right-wing parties in the years prior to and following the Second World War. In Germany such an organization was founded as early as 1908. In Japan, an "Economic Reconstruction Council" headed by an officer of the Federation of Economic Organizations which includes almost 1,000 individual firms and over 100 trade associations has served as the main channel of funds to business-oriented parties and candidates. The recent revelations of the acceptance of large sums of money by right-wing Japanese politicians from U.S.-based multi-nationals and armament manufacturers must be viewed in the light of traditional Japanese practice in which the business links of parties have been viewed as more or less normal.

In France a similar body known as the "Center for Administrative and Economic Studies" performed like functions in 1951 distributing money from industrial and financial sources to centre and right-wing parties, with the then Radicals alone being given $3,000 for each deputy and about double that amount for

deputies who had once held ministerial office. On the other hand left-wing and socialist parties in France benefit to a certain extent from their trade union affiliates. In addition, left-wing parties almost universally assess the elected deputies of their party for a substantial portion of their sessional indemnities as members of the Chamber of Deputies --a custom followed by the CCF/NDP in Canada as well; it has been estimated that in France as much as 20 per cent of a deputy's salary may be paid back to his party.

Prior to the 1974 presidential election in France, Johnathan C. Randall of the Washington Post (April 30th, 1974) provided the following information regarding French campaign finance. The largest single contributor is the Conseil national du patronat français (le Patronat)-- the equivalent of the Canadian Manufacturers' Association. But little is known of the actual sums raised. One of the candidates in that election, Jacques Chaban-Delmas, benefitted from the fund-raising activities of the head of the French Line and those of the head of the Franco-Arab Chamber of Commerce. That the sums raised were extremely large may be gathered from the fact that the major candidates are reputed to have spent about $600,000 each on colour posters alone and to have made extensive use of helicopters

and the other paraphernalia of U.S.-style campaigning. On the other hand, the left-wing candidate François Mitterand required the assistance of the 102 Socialist and allied deputies who each contributed $200 to help pay for the use of a jet. The Communists at that time insisted that their 73 deputies remit to the party their full monthly salaries of $1950 to the party from which they returned $400 which was deemed to be the equivalent of the wages received by a skilled worker in France. In addition the Communists have access to support from the Confédération générale du travail and the profits of a number of party-owned businesses.

The only French controls worth mentioning are the limits imposed on the use of certain of the mass media. It should be noted that the once-flourishing party press no longer plays the role it did prior to the Second World War; indeed the crisis of the party press has in other places like Sweden been one of the motivating forces stimulating public subventions of party activities. In France, however, rigid controls have been placed on the number and size of posters which any party or candidate may post during the course of a presidential or legislative campaign. Also time may not be purchased on the broadcasting media but is allocated free of charge to candidates with strict

rules as to the approach and use made of this time. Some candidates, however, like Jean-Jacques Servan-Schrieber, are reputed to have used the commercial facilities afforded by the "postes périphériques" such as Radio Luxemburg, Europe No. 1, Radio Monto Carlo and Radio Andorra, all of which are clandestinely controlled by the French government itself through a holding company. On the other hand, it should be pointed out that these restrictions are mollified by the fact that the French radio and television systems devote a tremendous amount of time to the debate of public affairs particularly at election time, much of which is in the form of general debates between leading spokesmen for the parties and candidates. Acute observers like Pierre Salinger, former press secretary to the late U.S. President John F. Kennedy, have high praise for the quality and value of these broadcasts, seeing them as a model to be emulated (Washington Post, May 11, 1974).

Japan: The all-pervasive influence of corporate power is no where more blatant than in Japan. In the first six months of 1974 the 1,373 political organizations including the five major political parties of that country were reported by the Home Ministry to have received $172 million; the parties received a

combined total of $75.9 million, topped by the ruling party with $49 million followed by the Communists with $14 million. (N.Y. Times, Dec. 28, 1974) Although Japanese law sets a legal limit of $65,000 for political contributions to candidates, the governing Liberal Democratic Party is reputed to have raised about $100 million for its 95 candidates for the July 1974 Senate elections from Japan's major industrial corporations. The weaknesses and ambiguities of the law, known popularly as the "zaru ho" -- or "bamboo basket" law because it is so full of holes -- has permitted some corporations like the Mitsubishi group of 27 companies to contribute as much as $3.5 million dollars to a single sponsored candidate. Japanese law permits corporations to make tax-free contributions to politicians limited theoretically on a sliding scale according to company size. Despite the leniency of the law, Japanese corporations conceal large portions of their contributions with the assistance of their accountants, some in the form of "irrecoverable credits".

The law's ambiguity has also permitted the Socialists to benefit from large sums from their affiliated trade unions. And the Komeito, or Clean Government Party, receives financial support from its religious counterpart, the Soka Gakkai Buddhist Sect.

In some respects, as in the use of radio, television,

newspaper advertising and the posting of bill-boards, Japanese law resembles aspects of Canadian and French law and practice in its limitations and restrictions, but the financial freewheeling makes a mockery of the controls. Thus the current Lockheed scandal in that country must be seen as not merely accidental but the logical culmination of a process with long-standing roots. Unless resolved by far-reaching reform, the very stability of Japanese democracy may be called into question.

Puerto Rico: The Puerto Rican system of direct subsidies by the state to political parties was introduced in 1957 in an effort to escape the traditional dependence of that Commonwealth's political parties on the powerful sugar interests which dominated the island's economic life, or the resort to the "macing" of civil servants through a system of quotas whereby government employees were expected to contribute a minimum of two per cent of their salaries to the coffers of the governing party. Initiated by the supporters of Commonwealth status, the Popular Democratic Party under the leadership of Luis Muñoz Marin, who had come to power in 1940 under the slogan "Personal Dignity against Money" (Vergüenza contra Dinero) but which found itself

dependent on kickbacks from public employees, the scheme gained the support of the Statehood Republican Party which promotes the idea of statehood and is linked with the traditional, conservative economic interests. On the other hand, this pioneering scheme was initially opposed by the Independence Party and the nationalists who feared that dependence on state funds would mean their subordination to the dominant party.

The 1957 Act and its subsequent amendments are based on three principles: the use of public funds to finance party activities so as to free them of control by economic forces and allow them to carry out their functions as democratic instruments; the prohibition of large contributions and the limitation of donations from private sources; restrictions on the dunning of public servants. A public electoral fund was established by the Commonwealth Treasury from which "principal political parties" which had each gained at least 10 per cent of the votes for Governor in the previous general election could draw up to $75,000 in non-election years and $150,000 plus unused balances from earlier periods in election years. Parties are expected to account for all of their expenses through monthly reports to the Secretary of the Treasury. The Act also defines what are legitimate expenses for administrative and operational purposes. It

lays down formalities to be met before money can be drawn from the fund on pain of refusal of payment. Reimbursements are made to a party without preliminary checks but the Commonwealth Controller makes a biennial post-audit. Irregularities are then corrected subject to appeal to a committee on which the principal parties are represented. The act sets ceilings on voluntary private contributions for political ends. In non-election years an individual or corporate body may contribute a maximum of $200 to local and central party funds, respectively; the total annual contribution must not exceed $400. During an election year any person may contribute $300 to either level, with the total not to surpass $600. Such contributions may not be made directly to a candidate, but the donor may request that the appropriate party earmark funds for his preferred choice. The Act protects public servants by forbidding solicitation during working hours or within government buildings or precincts. Nor may government employees solicit funds for political purposes. Contraventions of the latter provisions may result in the loss of employment and civil rights as well as fines and imprisonment.

The 1964 amendments to the Act increased the sum available for disbursement from the electoral funds and permit grants to smaller parties; the minimum qualifying percentage was lowered to

5 per cent and provision was made for a sum to cover the cost of transporting voters to the polls on election day. The control measures were also strengthened with respect to reporting and the protection of civil servants.

As a result of the amendments and the growth in the number of participating parties, disbursements from the Puerto Rican Electoral Fund more than doubled for the four-year intervals beginning in 1957 and ending in 1972; in the four-year period 1969-1972 almost $2.3 million was disbursed by the Commonwealth Treasury to six qualifying political parties. The establishment of the fund has brought about a decrease in private giving to parties. In compensation parties have been forced to budget and husband their resources. Stringent interpretation of the rules has precluded the creation of new parties to exploit the fund. On the other hand there has been some evidence of increased costs due to the decline of volunteerism and increased professionalization, and the tendency to bureaucratization of party organs has resulted in some loss of enthusiasm on the part of ordinary party members.

Federal Republic of Germany: The West German subsidy system first instituted in 1959 is a product of the post-war evolution of that country's party system. Unlike its counterparts elsewhere on the European continent who were supported by affiliated trade unions,

the Social Democratic Party (SPD) derived the bulk of its financial resources from the direct membership dues of its members who were expected to contribute at least one per cent of their incomes to the party. On the other hand, the liberal Free Democratic Party and the Christian Democrats (together with its Bavarian ally the Christian Social Union) were dangerously dependent on business sources of funds through "sponsor" groups which acted as conduits for political funds from the most powerful sectors of German industry. Alarm at this situation and reaction to pressure from business and a decision of the German constitutional court prompted the establishment of the first European subsidy system.

In 1958 the Bundesverfassungsgericht was asked to determine whether a 1954 amendment to the West German Income Tax Act and a subsequent amendment permitting tax reductions for gifts to parties were constitutional. The Court found that these provisions contravened the fundamental right of political parties to equality of opportunity and the rights of citizens to equality of treatment. The Court declared that business corporations exist to make profits, and that the deflection of these monies to political parties was a violation of the rights of shareholders. Tax exemptions for political gifts were therefore found to be unconstitutional. The Court there-

upon proposed that the government consider a system of direct subsidization of political parties by the state as a means of harmonizing the needs of the parties with the rights of the citizens. Deprived of the income tax deduction, German corporations generally ceased to contribute to political parties. Thus a combination of political prudence and financial pressure brought about the institution of the West German subsidy system.

In 1959 the Adenauer government allocated DM 5 million for allocation amongst the parliamentary parties by including in the federal budget an item to provide "for the promotion of political education by the parties". Similar sums were allocated to each party roughly proportionate to its parliamentary strength in 1960 and 1961. In 1963 the total amount was raised to DM 20 million; the extra sum was added to meet the general operational expenses of the parties; in 1963 the "educational" restriction was dropped and the allocation system changed to provide that 20 per cent of the appropriation would be divided equally amongst the four parliamentary factions, with the remaining 80 per cent to be divided according to the percentage of votes these parties received in the previous election. The constitutional validity of the system was again challenged by one of the socialist-dominated Länder govern-

ments ostensibly on the grounds that it discriminated against smaller parties which had not won parliamentary seats (a small right-wing party also joined in the challenge); the SPD feared that the CDU/CSU, then in power, might arbitrarily use its control of the budget to cripple it or its potential coalition partners, thus limiting its freedom of action. The Karlsruhe court on July 19th, 1966, found the system to be unconstitutional but encouraged the various parties to find an acceptable solution within the framework of the Republic's fundamental laws and one which would not violate the rights of extra-parliamentary political groupings.

This second constitutional case produced a formula whereby public subventions were linked with actual campaign costs using expenditures on the 1965 federal general election as a base-line. The sum then expended of DM 95 million was divided by the number of eligible electors and the subsidy fixed at DM 2.5 per elector, payment of which was to be made over the subsequent four-year inter-election period to parties which had received at least 2-1/2 per cent of the total votes cast (in 1972 this percentage was lowered to one-half of one per cent). Receipt of the subventions was made conditional on annual reports of income at Federal and

Länder levels to the President of the Bundestag, including the specific itemization of all contributions over DM 20,000. These allocations are staggered over 4 years, and rise from 10 per cent of the total in the first year of a Parliament to 40 per cent in the year immediately preceding a general election. In 1974 the basic subsidy was increased to DM 3.5 per eligible voter with the result that German parties will by the time of the general election in 1976 have shared in the sum of DM 142 million, or about $56 million dollars in the four-year period 1972-1976.

In addition to the federal subsidy discussed above, West German political parties have access to three other sources of public money. The Länder, or provinces, have subsidy systems of their own; the parliamentary factions at the federal level receive generous assistance in support of their legislative activities; and the four research institutes attached to each of the main parties receive substantial allocations from the federal treasury (indeed it has been rumoured that SPD's Friedrich-Ebert Stiftung served as the conduit for assistance to Mario Soares moderate Socialist party in Portugal's recent general election). Private donations are not forbidden. Indeed these are

encouraged and since 1968 small individual donations up to DM 600 have been made tax deductible. In addition, Germany like other European states provides free broadcasting time to parties.

The result of these reforms has been to make the CDU less dependent on business and less subject to its pressure. The liberal Free Democratic Party is now able without fear of reprisal to enter into coalitions with the SPD, while the Social Democrats can now compete on a more even basis with their right-wing rivals. On the other hand some observers, like Dick Leonard of the Economist, have found that the large public subsidies have encouraged the tendency toward the increased centralization of the parties and have enhanced and reinforced the powers of the full-time professional internal party bureaucracies vis-à-vis the ordinary membership and the parliamentarians.

Sweden: As elsewhere in Scandinavia, Sweden does not attempt to control the amounts spent by candidates or parties. The proportional representation system implies that costs are incurred primarily by parties. But there is no Swedish law which compels the latter to disclose the sources of their funds which are derived largely from membership dues and contributions from business,

labour and interest groups, in addition to cash subsidies from the public treasury. The primary impetus for the adoption of the Swedish subsidy system on December 30th, 1965, was the financial crisis faced by the party press and newspapers, which had seen a drastic reduction in numbers in the years following the Second World War culminating in the closing of the leading Social Democratic dailies in Stockholm in the early sixties. The original proposal to make up the deficits of the party press proved impractical. Precedents existed in the subsidies which had been provided to parties for specific purposes, such as grants to party youth movements, reimbursements for special electoral purposes like the printing of ballot papers and for the conduct of information campaigns related to the holding of plebiscites and referenda on various public issues. The initial allocation of Sw. Kr. 70,000 per seat, totalling Sw. Kr. 23 million, was made in 1966 subject to the following principles:

1. Assistance would be given only to those parties which have considerable support among the electorate, as shown by the results of general elections.
2. Subsidies should be calculated according to a system and distributed according to definite rules which would not permit any arbitrary changes.

3. The amount of the subsidy should be calculated with respect to the support for the party among the electorate.
4. The state should not exercise any control over the use made of these funds.

The law set a minimum of 4 per cent of votes that a party had to obtain in order to share in the subsidy; later the qualification was lowered to 2.5 per cent of the votes nationwide. Similarly the allocation per seat was raised to Sw. Kr. 85,000 in 1972, and a basic flat-rate grant of Sw. Kr. 1.5 million was made to each qualifying party. This system is now supplemented by public subventions at the county and communal level. Adding to these substantial resources from the public sector are annual grants made to the parliamentary factions of the political parties for research and administrative purposes. Leonard estimates that the sums received at the national level are matched by the amounts distributed at the regional and local authority levels. Since its inception the total national subsidy has risen by more than thirty-five per cent and on the average appears to meet about two-thirds of the expenditures of the average party. Finally, it should be recalled that the broadcasting monopoly under state control provides extensive free facilities to the parties during and between elections, but

Sveriges Radio puts a particular premium on encouraging debates and direct confrontations between party spokesmen in contrast to the "talking heads" or "spot" approaches common in other countries with less open or more commercial broadcasting traditions.

There appears to be a marked difference amongst Swedish parties with respect to the use to which the subsidy funds are put. The governing Social Democrats have employed a large portion to assist their ailing newspapers; however, newly instituted press subsidies will release funds for other purposes. The Conservatives have also used their funds to maintain communications with their followers whereas the other parties have spent large amounts on electoral purposes and the strengthening of their internal staffs and organizations, research and publicity. All parties admit to the fact, however, that the growing weight of the subsidies has brought about a diminution of contributions from the private and voluntary sectors.

Other Subsidy Systems: Ten other countries outside the United States of America which have adopted some form of public subvention of political parties will be considered here in very brief form, namely Argentina, Austria, Costa Rica, Finland, Norway,

Denmark, Italy, Israel, Turkey and Venezuela. Argentine parties receive public grants related to their candidates' rank ordering and the number of votes cast in their behalf at the previous election; these are made to assist the parties in the "fulfilment of institutional functions"; other benefits include tax and fee exemptions on postal and telegraph services, certain free telephone services, free (non-airline) transportation within the country, and free broadcasting time. In Austria a number of provincial Länder governments, and as of 1975 the federal government for certain itemized expenses, provide a varying per vote subsidy to parties represented in the respective legislatures; in addition allocations are made in several Länder to help meet the costs incurred by the legislative factions of the parties. Parties which receive at least 10 per cent of the vote in an election in Costa Rica are entitled to modest grants.

In Finland parties are awarded regular subventions, paid quarterly, according to the number of parliamentary seats in their possession; representation in parliament is a sine qua non for such payments. The Finnish system is based on the Swedish model and was adopted in 1966 through the addition of a 10 million Finnmark item to the state budget. By 1973 this appropriation had

increased to 16 million marks. On the average, these subsidies appear to have provided just under two-thirds of the revenues of Finnish parties in the early seventies.

Politics in Norway have long been dominated by the existence of a powerful trade union centre known as the LO. In reaction employers' groups have sought to support parties opposed to the long-dominant Labour Party. After the Second World War, a business-backed "conveyor" group known as Libertas was formed to encourage conservative candidates and support business-oriented periodicals and informational activities, an activity which it continued after its allegedly clandestine financial support of the campaigns of non-socialist groups came under public attack. When Labour lost office in 1965, the stage was set for the introduction of a subsidy system. In 1969 the Norwegian Storting introduced a system of financial assistance to political parties proportionate to the support each had received at the polls. To qualify parties must enter candidates in at least 50 per cent of the multi-member constituencies; no other conditions are imposed and no restrictions are placed on the use of funds. Distribution of the subsidies is under the supervision of an impartial committee composed of one representative, respectively, from the Ministry of Justice and

the Central Bureau of Statistics and headed by the Chief Justice of the Oslo District Court. In 1974 the total sum allocated to 12 parties amounted to N. Kr. 13 million, in sums ranging from N. Kr. 11,700 for the Women's Freely Elected Representatives to N. Kr. 4,589,000 for the Labour Party; in 1975 N. Kr. 14 million appear to have been distributed. In addition each party receives allocations in support of its press bureau and parliamentary secretariat, and grants in aid of its youth organization.

Denmark adopted a modest subsidy system based on the Swedish model in 1969. Parties represented in the Folketing are entitled to grants according to the size of their parliamentary factions. In 1974 the basic monthly subvention was D. Kr. 2,159 per member with additional monthly sums of D. Kr. 7,592 and D. Kr. 15,185 to groups with more than 4 or more than 8 members of the Folketing respectively. Over D. Kr. 6 million was distributed in 1974. Parties may use these funds in any way they see fit for organization purposes to meet the needs of members of the Folketing.

The revelation of far-reaching corruption and scandal in Italy prompted the hurried enactment on April 17th, 1974, of a system of party subsidies to replace the funds which had been given to the parties by the oil and chemical lobbies, the U.S.

Central Intelligence Agency and other questionable sources. The Act established two funds--one for each general election and the other for annual organizational purposes. The latter amounts to IL 45,000 million or $75 million annually and the former to IL 15,000 million or $25 million for each election. Fifteen per cent of the electoral funds is to be divided equally amongst the largest parties, that is those with candidates in at least two-thirds of the constituencies and which gained at least 2 per cent of the vote; the remaining 85 per cent is to be divided amongst all parties proportionate to their share of the vote. Three-quarters of the organizational fund is to be divided proportionately amongst all parties according to votes received in the previous election, and the balance divided equally amongst the national parties with certain amounts reserved for ethnic and linguistic minority parties and Independents; there is a slight bias in favour of the largest formations. The new Italian law bans donations to political groups from state-controlled corporations and agencies (including those where the state has at least 20 per cent of the shares). Private corporations may contribute to political parties provided these donations are declared and disclosed publicly on their balance sheets. Whether this will ob-

viate clandestine giving and kickbacks on the Italian scene has yet to be proved by events.

In Israel parties have traditionally benefitted from transfers made from affiliated philanthropic labour and social groups as well as from constructive profit-making enterprises under their control. Despite the enactment of subsidies in the late sixties, recent press reports confirm that the two largest as well as the many smaller political parties are in a critical situation and faced with huge indebtedness which has necessitated loans from the public purse (unlikely to be repaid) in order to stave off their financial collapse. Turkey provides subsidies to parties which achieved at least 5 per cent of the vote in the previous election. Likewise, Venezuela provides governmental reimbursements to parties which received more than 10 per cent of the votes cast in a general election of members of the National Legislative bodies in accord with their respective share of the vote; similarly television time is prorated amongst parties which won at least 5 per cent of the vote to these bodies.

In closing this section it should be noted that the allocation of free broadcasting time on radio and television stations and networks is the general rule wherever such facilities are

under public ownership or are part of a state-controlled monopoly as in Britain or Switzerland. The U.S. situation is unique, whereas Australian practice is similar to the Canadian, consisting of a mixture of free time and the availability for sale of a modicum of commercial time to parties and candidates.

The United States of America: It would be presumptuous to undertake a detailed analysis of American party finance and election expense legislation within the narrow compass of this study. The complexity of the U.S. federal system with its 50 states, territories, commonwealths and federal congressional and presidential structures as well as the myriad number of local and regional authorities precludes an exhaustive effort; it has been estimated that more than 500,000 offices are filled through the electoral process in a four-year cycle in the United States. Nevertheless as the most powerful democratic state, its practices and legislative efforts at reform are worthy of attention even if the examination be cursory and limited to the highlights of its recent experience. (The attached bibliography will indicate where more detailed information and discussions may be pursued.) What follows, therefore, will focus on recent developments at the federal level but it should be

recalled that some of the more interesting and provocative reforms in the area of political finance have been undertaken by the states; the complexity presented to the analyst may be gathered from the fact that in the past five years federal legislation has been altered twice, not to speak of further changes due to Supreme Court decisions, and no fewer than 44 states have amended their campaign laws in the same time span.

Background: Traditionally, American political finance has depended on private benefactors rather than on the public purse. The major contributors have either been wealthy individuals or corporate or trade union donors who have given directly or through the channels of interest or so-called educational groups affiliated with elements of the business, labour or agricultural sectors of the American economy. However, in contrast to the Canadian and British situations in which most of the funds for campaigns are raised through the auspices of the political parties which distribute funds to their standard-bearers, American parties play a very minor role in campaign finance. The majority of states select the candidates of the parties through the primary process, the laws governing which in most cases forbid the party organizations from endorsing or

otherwise supporting a particular nominee. Thus the potential candidates are forced to rely on their personal organizations and resources to seek funds in order to build electoral support. This results in intense competition for money not only between the parties but within their ranks. Thus a decentralized party system compounds the centrifugal forces of federalism and creates a fragmented campaign finance system which is difficult to manage and subject to statutory and regulatory control. The candidate orientation of the American political system finds its counterpart in the often contradictory rules imposed by the fifty states and the federal congress. Thus much of the early legislation in the area of campaign finance tended to be negative and prohibitory. The emphasis was placed on limits and restrictions against certain types of giving and activities or on contributions from particular sources such as corporations and the "trusts". Indeed, the old Canadian ban against corporate giving passed in 1908 drew its inspiration from similar legislation passed during the Progressive Era in the United States in reaction to the abuses by the "trusts" exposed by the muckrakers such as Ida Tarbell and Lincoln Steffens.

Until 1972 the more noteworthy pieces of legislation at

the American federal level were the Pendleton Act of 1883 which forbade contributions by civil servants; the Tillman Act of 1907 which prohibited political donations by corporations and national banks; the Federal Corrupt Practices Act of 1925 which set spending limits and required disclosure by Congressional candidates and some political committees but which remained largely a dead-letter; the Hatch Political Activities Acts of 1939 and 1959 respecting civil servants; and the restrictions on the political and financial activities of the labour unions contained in the Smith-Connally Act of 1943 and the Taft-Hartley Labour Management Relations Acts of 1947 and 1949. More significant however, have been the actions of the U.S. Supreme Court which in the 1941 Classic case (313 U.S. 299-1941) reversed its earlier stand in the Newberry case (256 U.S. 232-1921) and extended Congressional authority over the primary and convention phases of the nominating process. But full disclosure, effective enforcement of controls and the notion of public financing as a replacement of private funding had to await public reaction to the twin stimuli and provocations of sharply rising costs and far-reaching scandal and corruption.

Throughout the 1950's and 1960's campaigns became ever more expensive. Alexander estimates that from 1912 to 1952

nominees for the presidency of the major parties spent about 19 cents per voter in the election period. In 1960 such costs rose to 29 cents, in 1964 to 35 cents, in 1968 to 60 cents and made a "quantum leap" in the 1972 Nixon-McGovern campaign to more than $1 per voter. Campaign costs for all offices from the "White House to the courthouse" increased in mind-boggling fashion from $200 million in 1964 to $300 million in 1968, and to the staggering total of $400 million in 1972. The sources of these vast sums are notorious. Gifts were made in return for promises, concessions and favours of various kinds. Dairy co-operatives, multi-nationals, laundered funds through Mexico, Switzerland and the West Indies, union gifts and clandestine sources of various types as well as excessive individual contributions provided the wherewithal. As Alexander states in his 1972 study:

> Political finance in the United States has long been undemocratic, with undue reliance on large gifts and a strong tendency toward corruption. The system of private financing survived because for many years it managed to provide sufficient funds. It also served the purposes of certain dominant special interests. The system came increasingly under attack in the 1960's not only because of past corruptions, but also because it began to fail to

provide the funds needed as campaigning became more sophisticated and more expensive. The increased incidence of deficit campaign financing during the 1960's is striking evidence of this failure.

The bipartisan Commission on Campaign Costs established by President Kennedy launched the reform movement. The issue was taken up by public interest groups such as the National Committee for an Effective Congress and Common Cause. But it was the Watergate Affair and its multiple ramifications which provided final and decisive impetus for fundamental change. Two bills adopted in 1966 and 1970 were either rescinded or vetoed, but in 1971-72 Congress adopted the first major reform since 1925. The Federal Election Campaign Act of 1971 strengthened the disclosure provisions and resuscitated an earlier public financing proposal. In the same year an amendment to the Revenue Act created the Presidential Election Campaign Fund based on a voluntary tax check-off and introduced modest tax credits and deductions for small political donations. The 1971 Act imposed stringent reporting of campaign contributions and expenses both prior to and following Federal elections. Supervision and enforcement were placed in the hands of the Secretary of the Senate, the Clerk of the House and the Comptroller General who were to administer the disclosure provisions as well.

Ceilings were imposed on spending by candidates and their families and limits imposed on media spending. The 1971 Act reiterated the prohibitions against political activity by corporations and trade unions, although permitting the establishment of separate, segregated voluntary campaign funds by these bodies. But a hiatus between the signing of the law and its entry into effect allowed last minute large contributions to escape scrutiny. Nevertheless, the new law and post-election inquiries set the stage for the Watergate revelations.

The 1974 Federal Election Campaign Act: The 1974 amendments extended public financial support only to the Presidential primary and nomination process, but created an independent Federal Election Commission to enforce the Act. This six-member administrative body was to be appointed by the President, the Speaker of the House and the President Pro Tempore of the Senate (its composition was later to be invalidated by the Supreme Court). A limit of $1,000 was imposed on the amount that any individual could contribute to the primary campaign of any candidate for the U.S. House, Senate or Presidency. A ceiling of $1,000 was set for a gift to any Federal candidate in a general election. Individuals could no longer contribute more than $25,000 for all Federal campaigns in a particular

campaign period, including gifts to party organizations. Independent expenditures in behalf of any candidate for Federal office are not to exceed $1,000 but certain "in kind" contributions up to $500 per candidate were exempted from the limits. Properly registered organizations in receipt of gifts from more than 50 persons which contribute to at least five Federal candidates may donate up to $5,000 to any one of them in both primary and general election campaigns. Although there is no aggregate limit on the expenditure of organizations, no more than $1,000 may be spent independently by an organization in behalf of any one candidate in a calendar year; "in kind" gift ceilings for organizations parallel those for individuals. Candidates for the Presidency, the Senate and the House may not spend from their personal funds on their own campaign more than $50,000, $35,000, and $25,000, respectively, for the entire campaign. A ceiling of $5,000 has also been imposed on cash contributions of national and state party organizations to a particular Federal candidate although they may make certain limited expenditures on their behalf. Fund-raising costs may not exceed 20 per cent of the funds permitted to be raised under the 1974 Act. The latter also sets a $10 million basic

limit plus 20 per cent for costs for a Presidential primary; primary costs for the presidential nomination in any state may not exceed twice those for a Senatorial candidate in that state. No more than $2 million may be spent by a candidate on a national nominating convention. In general election campaigns, the basic limit for a Presidential candidate is $20 million; if he does not opt for public financing an additional 20 per cent is permitted for fund-raising. National parties may spend 2 cents times the Voting Age Population or just under $3 million on behalf of its nominee in a Presidential race. Similar limits ranging from $180,000 to $84,000 have been placed on candidates for the Senate and the House of Representatives in primary and general election campaigns; with permitted party assistance at national and state levels respectively, from $20,000 to $10,000 for the upper and lower chamber.

The dollar (two-dollar for joint returns) check-off fund may be used for the public financing of Presidential campaigns as follows: for primaries, the act provides for the matching of private contributions up to $250, when a candidate has qualified by raising $5,000 in each of 20 States in matchable

contributions (the first $250 of any private gift may be matched and only sums raised after January 1975 qualified for the 1976 campaigns); for national nominating conventions, major parties automatically qualify for $2 million in matching funds, minor parties are eligible for lesser sums proportionate to votes won in previous elections; in general elections, the acceptance of $20 million in matching funds is optional, but major party nominees automatically qualify for full funding, minor party and independent candidates are eligible for a proportion based on previous or current election results. If a candidate receives full funding, he or she is not permitted to accept private contributions, but no Federal funds were available prior to January 1976. Nor was there any money for Senatorial and Congressional races in 1976.

The 1974 Act contains rigorous reporting and disclosure provisions. Candidates must establish one central campaign committee through which all contributions made on his or her behalf must be reported. Specific bank depositories must be designated into and out of which all funds are to be paid. Detailed and complete declarations of contributions and expenditures must be submitted to the Commission 10 days prior and 30 days following each election, and quarterly unless under $1,000

has been received or spent in that period; annual reports are necessary in non-election years. An interesting provision requires that gifts of $1,000 or more obtained within 15 days of polling day must be divulged to the Commission within 48 hours. Any organization which expends funds or acts so as to influence an election must report as a political committee; also persons who spend or contribute in excess of $100 other than through or to a candidate or committee must report to the Commission.

Cash gifts exceeding $100 are forbidden; all donations must be made by cheque. Gifts from foreign nationals are forbidden; nor may a prêt nom be used to conceal the source of a donation. Loans are treated as donations and each $1,000 outstanding must be co-signed and guaranteed. Finally the 1974 Act forbids the acceptance by an elected federal official of more than $1,000 in payment for any speech or article, or $15,000 in aggregate per year.

The 1974 Act prohibits the solicitation of funds by franked mail. It pre-empts State election laws governing federal candidates, increases existing fines to a maximum of $50,000 and provides that any candidate for Federal office who neglects to submit the mandatory statements may be pro-

hibited from standing for election again for the term of that office plus one year.

Constitutional Challenge: The 1971 Act with its 1974 amendments appears to have been quite popular. In the three years prior to December 31st, 1975, the Federal Election Commission reported that public participation in the matching fund through the income tax check-off system had grown from 3 to 23 per cent, and the fund stood at $61 million with a further $30 million expected from the 1975 returns. Despite the apparent success of the scheme, the law was challenged on constitutional grounds by a mixed bag of civil libertarians, conservative politicians and big givers who, each for their own reasons, objected to the limitations on their freedom of action basing their claim on the First Amendment provisions guaranteeing freedom of expression contained in the Bill of Rights of the Constitution. The Supreme Court on January 30th, 1976, rendered its decision in the case of Buckley v. Valeo. Important sections of the Act were held valid but the court called for the reconstitution of the Commission itself whose powers and authority were also modified. Congress was given a certain period, later extended, in which to enact the necessary modifications. The highlights of the Court's

decision follow.

The majority of the Court upheld the limitations on contributions to candidates for Federal office, including: first, the $1,000 limit on contributions by any person to any Federal candidate in an election; second, the $5,000 limit on gifts by a multi-candidate political committee; third, the $25,000 ceiling on total donations by an individual in a calendar year. The Court validated the disclosure and record-keeping requirements for candidates, political committees, and individuals or groups which receive and spend campaign funds, including the $10 and $100 thresholds and the provisos that anyone other than a candidate or political committee who donates or spends more than $100 on communications in order to influence elections or in order to promote or oppose a particular candidate must file a report. The constitutionality of the public financing of Presidential elections, including the primary matching fund, the general election fund, and the national nominating convention fund, was upheld, as were the national and State spending ceilings imposed on candidates and their campaign committees accepting public funding.

However, on the ground that limitations on expenditures constituted an unwarranted intrusion on a person's freedom of

expression, the following provisions of the Act were found to be unconstitutional: the limits on spending by a candidate from his or her personal funds; the over-all ceiling on campaign expenses by Federal candidates with the exception of Presidential nominees who accept public funding in any election; the $1,000 limit on non-collusive expenditures made independently of the candidate. The composition of the Federal Election Commission was invalidated but its past acts were given "de facto validity" and a stay was granted allowing Congress to reconstitute the Commission in conformity with the Appointments Clause of Article II of the U.S. Constitution.

Seasoned observers of the American political system agree that public funding of campaigns is here to stay. But the recent Court decisions appear to imply that the "unchecked rise in campaign expenditures" may well continue and that the search for equity meets severe obstacles when confronted with the Lockean language of the Bill of Rights and its proponents. Private money will continue to exercise a preponderant role in American campaign finance. The intention of the authors of the 1971 and 1974 Acts has been altered. In place of a ceiling on contributions and expenditures, the result as dictated by the Court may be a financial floor under candidates. Independent and third

party candidates will continue to face the problem of competing against the massive inputs of money available to the traditional contenders on the U.S. political scene. (It is curious to note that the so-called "equal time" rule which governs the allocation of broadcasting time to American parties and candidates has also resulted in injustice to third and minor party spokesmen. The slavish adherence to a nominal liberalism has led not to the provision of time but rather to a formula whereby the Courts and the Federal Communications Commission have interpreted an equal right to purchase under similar conditions, despite clear differentials in monetary resources, to be an acceptable facsimile of distributive justice. This has never been accepted in Canadian, British or European jurisprudence or administrative practice.) In any case it is too early to assess the actual effects of the 1974 reforms as interpreted by the Courts with respect to their actual impact on the 1976 campaign. Preliminary judgments are contradictory and vary with the analyst and the particular candidate and campaign under evaluation.

Florida: An analysis of state legislation might yield some useful examples of innovative experiments. Suffice it here to

draw attention to the Florida approach to campaign disclosure. Building on the agency doctrine, that state undertook major reforms in 1951 which have since been developed. Contributions are limited but there is no ceiling on expenditures. However, full disclosure and publicity must be given for all financial transactions in campaigns. Donors, candidates and their agents are each held accountable and responsible. Persons holding liquor licenses, racing franchises, operating utilities or other public concessions are prohibited from contributing to campaigns. All payments must be made by cheque through recognized agents and depositories. Weekly and monthly pre- and post-election reports are required. Public inspection of statements, receipts and vouchers are facilitated and publicity assured, all subject to stringent controls and penalties.

International Organizations: The revelations of corporate misbehaviour in Italy and Japan amongst others has focussed attention on the politically oriented activities of large multi-national enterprises. The public uproar and a concern that if unchecked these abuses could lead to the curtailment of corporate freedom of action prompted the Organisation for Economic Cooperation and Development (OECD) to seek agreement on a code of conduct.

After difficult bargaining and disputes amongst the members particularly the United States and Sweden, agreement was reached in May 1976 and a code adopted on June 21st, 1976. An examination of the preliminary text reveals that the 24 member countries and their spokesmen were extremely solicitous to preserve a broad field of action for the multi-nationals. Nevertheless, in a section devoted to illicit practices, the negotiators agreed that such firms and enterprises ought "not render, and they should not be solicited or expected to render, any bribe or improper benefit, direct or indirect, to any public servant or holder of public office unless legally permissible, nor make contributions to candidates for public office or to political parties or other political organizations, and abstain from any improper involvement in local political activities " (New York Times, May 27, 1976, pp. 1, 6 & 7, our italics). Whether these are simply pious wishes or principles which will actually govern corporate behaviour in the future, only history will judge. The fact remains that the problem now transcends national boundaries.

COMMENTARY

In the concluding chapter to his major study of Canadian party finance, the author of this report made a statement which merits repetition at this point.

> The problem of money for the parties is determined by the amounts required, the sources and the means employed to gather these funds. The influence of money, contributors and collectors can only be assessed if one is prepared to dispose of the myth that no price need be paid by a political party for the acquisition of financial resources....The financial history of Canadian parties, however, is singularly devoid of acts of altruism. All the evidence is to the contrary. Material gain, policy decisions, the choice of leaders and the general course of government activity have all been counters in the effort to provide funds for the parties. At the lowest level the price has been concessions, dispensations, and specific acts of patronage; at a higher level the aim has been to "stabilize the field for corporate activity." In both cases contributions have assured access to the decision-making authorities in party and government.

The advocates of reform may be motivated by a desire to promote honesty or to reduce costs or by a commitment to the liberal principles of equity and equality of opportunity.

Corruption is viewed as a threat to the stability and integrity of the political and social order. High costs prevent the effective participation in the electoral process of those who do not have access to the means to conduct increasingly expensive and sophisticated campaigns. Liberal democracy is posited on the belief that in a fair fight untrammelled by the shackles of "unfair competition", the best man and the best policy will carry the day. Unequal and clandestine access to campaign funding constitutes a threat to all three goals.

In like fashion three principles must be recognized and accepted in any program to reform campaign finance. First, no scheme can be successful which avoids the issue of providing an alternative to the traditional sources of election funding. Second, the pressure of an alert and watchful public opinion is essential to the maintenance of the probity of the electoral system. Third, general statements of intent and toothless hopes for good behaviour are empty and misleading gestures contributing to cynicism.

The experiences narrated and analysed in the foregoing pages have demonstrated, in the author's view, that a system of public financing, full disclosure and an enforcing agency

backed by legal sanctions are essential to the success of a reform program. Public funding may be by way of allocations from the consolidated revenue fund, tax credits or matching funds or a combination of these. Disclosure requires systematic reporting, auditing, public access to records and publicity, all this buttressed by a proviso that corporations, trade unions and other groups be required to publicize in their annual reports to shareholders and members the amounts contributed to parties, candidates and other political purposes. Enforcement demands a strong Commissioner, Registrar or Commission endowed with sufficient legal powers to supervise, verify, investigate and if necessary institute legal proceedings. Anything less is a formula for failure.

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N.B. All of the major Canadian, Comparative and American works cited above contain detailed bibliographies which should be consulted for particular country studies and schemes. The best single source of comparative information in organized form may be found in individual studies which form part of the Report of the Committee on Election Expenses, researched, written and edited under supervision of the author.